CHILDREN IN STATE CARE: ENSURING THEIR PROTECTION AND SUPPORT

HEARING

BEFORE THE

SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, SEPTEMBER 25, 1986

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CHILDREN IN STATE CARE: ENSURING THEIR PROTECTION AND SUPPORT

THURSDAY, SEPTEMBER 25, 1986

House of Representatives,
Select Committee on Children, Youth, and Families,
Washington, DC.

The select committee met, pursuant to call, at 9 a.m., in room 2359, Rayburn House Office Building, Hon. George Miller (chairman of the committee) presiding.

Members present: Representatives Miller, Boggs, Boxer, Sikorski, Evans, Coats, Johnson, and Cobey.

Staff present: Ann Rosewater, deputy staff director; Marcia Mabee, professional staff; and Joan Godley, committee clerk.

Chairman Miller. Good morning. This hearing is about the millions of American children and youth who remain essentially invisible to policymakers.

They are in foster care, detention and correctional institutions, training schools, and mental health facilities.

I believe that we can improve the life for children in these systems, better protect and nurture them, and save the taxpayer's money. But it will take a full commitment on our part, because as we will learn today, there are extremely serious problems with the current approaches.

More than 10 years ago, I became deeply concerned about the Federal Government wasting millions of dollars to maintain children in out-of-home care who could be much better served elsewhere.

In effect, the Federal Government was subsidizing the breakup of families and providing little help to see that these uprooted youngsters were adopted or found permanent homes. Thousands of children were languishing in foster care for years at a time, often bouncing from one placement to another with little hope of finding a stable family environment.

As a result, a bipartisan coalition of legislators, State and local welfare directors, and child advocates, rewrote the law. Our reform effort became the Adoption Assistance and Child Welfare Act.

Four years after the law's enactment, I was gratified by the HHS Inspector General's 1984 report showing that the law was beginning to work effectively. The HHS report concluded that: between 1977 and 1982, the number of children in out-of-home placements had been cut in half; the average stay of a foster care child had been reduced by more than 25 percent—from 47 to 35 months; and that the law was promoting adoptions by reducing by more than half the numbers of children awaiting adoption.

That is the good news.

A few years have gone by and, frankly, I regret that the administration's enforcement efforts have dissipated, and that the tools made available through this law simply are not being used.

Placements in foster care have once again increased, varying widely among States. In my State of California, where reports of child abuse have skyrocketed, foster care placements have increased by 40 percent.

What I find even more disturbing are the allegations of abuse, the stories of children dying in care, the declining numbers of foster parents, the lack of support and training for those who dedicate themselves to the care of these children.

There is another law on the books designed to protect troubled children from inappropriate placement and give them an opportunity to get back into the mainstream of American life: the Juvenile Justice and Delinquency Prevention Act of 1974.

It was designed to prevent delinquency by providing community-based alternatives for troubled youth, to deinstitutionalize status offenders, and to remove children from adult jails. For those children who were placed in jails, the law required that States assure that children are separated, by sight and sound, from adults.

Here, too, we find failure on behalf of the administration in seeing that young people who are placed in training schools, detention facilities, or adult jails are placed there appropriately, and once there, are provided basic services and protections.

Still 20 percent of juveniles are detained in adult jails for "status offenses" such as underage drinking, sexual promiscuity, or running away. And some 19,000 juveniles are jailed without having committed any criminal offense at all.

There are allegations of overcrowding and abuse in the major youth correctional facility in California, including detention centers in virtually all the counties in the Bay Area. The result is intolerable conditions for youth, increased potential for abuse, and, needless to say, little opportunity to provide the remedial counseling and help that troubled youngsters need so desperately.

Today we will hear more about the conditions of children in State care in the District of Columbia, Maryland, California, Kentucky, Mississippi, and North Carolina. We will hear about the lack of monitoring and accountability of institutions that house children.

We will hear, as is the tradition of this committee, from parents, youth workers, legal advocates, program administrators, and State officials.

We will learn, as well, about communities that have turned their practices around so that children can thrive in permanent placements, and can receive the services appropriate to their needs, as indicated by the Congress when it enacted Public Law 96-272, and other statutes aimed at protecting and assisting children in State custody.

We will learn, once again, about the cost effectiveness of community-based services, and the effectiveness of preventive approaches which can mitigate the harsh circumstances all too many families in this Nation face.

We will have to sit down after this hearing and ask ourselves several questions:

What more can we do to prod the States to keep account of the children in their charge, and to ensure that the homes, institutions, and other facilities where children are placed are appropriate and decent places, fit for the young people of this Nation?

Do we need additional Federal legislation which sets out standards of care and protection for children, most of whom, through no fault of their own, have the misfortune of having the State as their parents?

It is in the interest of these invisible children and youth that we ask these questions.

We cannot accept or afford a patchwork of systems for children out of home that is unregulated, inhumane, or unjust.

We know that it is possible to shape cost-effective policies for children in need. That should be our goal as we begin today's hearing.

[Prepared statement of Congressman George Miller follows:]

PREPARED STATEMENT OF HON. GEORGE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

This hearing is about the millions of American children and youth who remain essentially invisible to policy makers.

They are in foster care, detention and correctional institutions, training schools, and mental health facilities.

I believe we can improve life for children in these systems, better protect and nurture them, and save the taxpayer money. But it will take a full commitment on our part, because as we will learn today, there are extremely serious problems with the current approaches.

More than ten years ago, I became deeply concerned that the federal government was wasting millions of dollars to maintain children in out-of home care who could be much better served elsewhere.

In effect, the federal government was subsidizing the break-up of families and providing little help to see that these uprooted youngsters were adopted or found permanent homes. Thousands of children were languishing in foster care for years at a time, often bouncing from one placement to another with little hope of finding a stable family environment.

As a result, a bipartisan coalition of legislators, state and local welfare directors, and child advocates, re-wrote the law. Our reform effort became The Adoption Assistance and Child Welfare Act (P.L. 96-272). Two years after the law's enactment, I was gratified by the HHS Inspector General's 1984 report showing that the law was beginning to do its job.

The HHS report concluded that, between 1977 and 1982, the number of children in out-of-home placements had been cut in half, the average stay of a foster care child had been reduced by more than 25% (from 47 to 35 months), and that the law was promoting adoptions by reducing by more than half the numbers of children awaiting adoption.

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Placements in foster care have once again increased, varying widely among states. In my state of California, where reports of child abuse have skyrocketed, foster care placements have increased by 40%.

What I find even more disturbing are the allegations of abuse, the stories of children dying in care, the declining numbers of foster parents, the lack of support and training for those who dedicate themselves to the care of these children.

Ten foster children in the responsibility of San Francisco's Department of Social Services, but placed in communities outside San Francisco including my home district of Contra Costa County, have died in the past two years.

There is another law on the books designed to protect troubled children from inappropriate placement and give them an opportunity to get back into the mainstream of American life—The Juvenile Justice and Delinquency Prevention Act of 1974.

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CHILDREN IN STATE CARE—A FACT SHEET

AFTER DECLINE, NUMBER OF FOSTER CARE CHILDREN INCREASING

In 1977 an estimated 500,000 children were in foster care, dropping to 269,000 by 1983. In 1984, the number of children in foster care rose to 276,000—a 2.6% increase. (Department of Health and Human Services [DHHS], August, 1986)

State foster care trends between 1980 and 1984 varied widely. Twenty-one states showed an increase, while in 29 states the number of children in foster care decreased. For example:

Increases: California (40%); Arkansas (38%); Illinois (26%).

Decreases: New York (−36%); Florida (−35%); District of Columbia (−21%). (DHHS, August, 1986)

In California, the number of children placed monthly in emergency shelter care increased from 560 in 1981 to 3,280 children in 1985. 40% of the children were "re-

placement" children for whom a foster care placement has failed. (Children's Research Institute of California, 1985; California Children's Lobby, August, 1986)

DESPITE DECLINING YOUTH POPULATION, YOUTH DETENTIONS INCREASING

A one day count of children in public and private detention and correctional facilities indicates that there has been an 11% increase from 1979 (74,113) to 1983 (82,272). Preliminary estimates for 1985 indicate an additional increase of 3-4% (up to 83,000). (Bureau of Justice Statistics, [BJS], U.S. Dept. of Justice, August, 1986)

The total number of such facilities increased 13%. (BJS, Sept., 1986)

A one day count of jail inmates showed that the number of juveniles incarcerated increased 8%—from 1,611 to 1,736—between 1978 and 1983, but declined 15%—from 1,736 to 1,482—between 1983 and 1984. (BJS, May, 1986)

It is estimated that 300,000 to 479,000 juveniles are locked in adult jails throughout the United States annually. (GAO, 1984; Dept. of Justice, 1985)

REINSTITUTIONALIZATION OF YOUTH

The number of children in private facilities increased 9% in 1985. Nearly half of this increase (from 5,000 to 7,400) was for children in long-term, secure institutional care facilities. (BJS, August 1986)

FEWER ADOLESCENTS IN YOUTH FACILITIES, MORE IN MENTAL HEALTH INSTITUTIONS

Nationwide, the number of children and youth in facilities caring for dependent and neglected children declined 59% between 1966 and 1981—from 60,459 to 24,712—while the number of children and youth in facilities for mentally ill and emotionally disturbed children increased 57%—from 21,904 to 34,495. (GAO, 1985)

In Minnesota, the rate of psychiatric admissions for juveniles has increased from 91 per 100,000 admissions in 1976 to 184 per 100,000 in 1983. The proportion of juveniles receiving inpatient treatment for chemical dependency increased from 17% in 1978 to 23% in 1982. (Schwartz, Jackson-Beek, and Anderson, "Crime and Delinquency," July, 1984)

Between 1980 and 1984, admissions of adolescents to private psychiatric hospitals increased an estimated 450%—from 10,764 to 48,375. (National Association of Private Psychiatric Hospitals [NAPPH], 1985)

THOUSANDS OF CHILDREN HELD IN JAILS, DETENTION INAPPROPRIATELY

Of the children held in adult jails annually, approximately 10% are held for serious offenses; 20% for "status offenses" such as underage drinking, sexual promiscuity, or running away; and 4% (over 19,000) without having committed an offense of any sort. (BJS, February, 1985)

Over 9% of jailed juveniles are thirteen years old or younger. (BJS, February 1985)

In 1984 in California, 11,249 children were incarcerated in jails and police lockups for periods of six hours or more. (California Youth Authority)

California's Long Beach jail, where 2,233 youths were held in 1984, also housed abused and neglected children, bringing the total detained annually in that jail alone to approximately 4,500. (CYA; Deputy Police Chief, William Stovall, Long Beach, California)

A 1986 study of children, aged 10-15 (boys), and 10-17 (girls), at Montrose School, a juvenile detention and commitment facility in Maryland, found that 72% were committed for non-violent crimes—44% of these were committed for violation of probation. The children were found to have multiple problems, including 72% with a primary diagnosis of emotional disorder, especially depression, while 53% were hyperactive, and 70% had a substance abuse problem. The study determined that at least 50% of the youth did not need institutional care. (Maryland Dept. of Health and Mental Hygiene, Sept. 1986)

The suicide rate of juveniles in adult jails is eight times greater than that of juveniles in juvenile detention centers. (OJJDP, U.S. Dept. of Justice, February, 1985)

[Opening remarks of Congressman Dan Coats follows:]

OPENING REMARKS OF HON. DAN COATS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA AND RANKING MINORITY MEMBER

Mr. Chairman: I am pleased that today's hearing will examine some very critical issues regarding the circumstances of children in state care.

You can not pick up a newspaper anywhere in the nation without finding horror stories reporting the lack of responsiveness of bureaucratic state agencies to the needs of children and families.

I am appalled at the millions of dollars that we at the federal level have appropriated for the foster care system, the mental health system and the juvenile justice system with apparently little positive results.

As is evidenced by the testimony before us today—too many reformatories fail to reform—too many foster care placements don't care.

The hearing today will raise some important questions: What kind of services are children in state care getting? What are the taxpayers getting for their money? What is the extent of federal and state control over situations where children are not getting much needed rehabilitation services?

One important issue before the committee today is the question of the extent of state control over religious institutions. Here it is vital that we listen carefully to testimony that addresses both the principle of church and state separation and the caution against equating state licensing with "quality care."

In the face of the testimony brought before us today can anyone here really argue that a licensed facility, just by virtue of the license itself is a "quality facility"?

There are not easy solutions to the problems that confront us due to the breakdown of so many families. However, there is no question that when the state assumes the custody of children that it has a responsibility to protect their well-being and to foster optimal growth.

One of the major points of the hearing today ought to be where do we go from here. What are the alternatives to current service delivery models? We will have several witnessses today that will discuss alternatives. It is my sincere hope that all of the Members of our Committee will seriously consider the options that different service delivery models offer.

I believe that it is time to consider, "in the best interest of the child," every possible option—private for profit care as well as non-profit care. Program models that call for placing children in the "least restrictive environment," such a restitution alternatives to incarceration need to be explored.

In our search for solutions we must be careful not to narrow our current field but to open up to alternatives that might prove to be more effective than current service delivery models. We owe that to the taxpayers we represent and the children and families our Committee is dedicated to promote.

CHILDREN IN STATE CARE—MINORITY FACT SHEET—FACTS

Juvenile Justice

"In 1974, the average length of detention stay was 11.3 days; by 1982, length of stay had increased to 17.4 days." (Barry Krisberg, et al, "Watershed of Reform," *Crime & Delinquency,* January, 1986)

". . . after a decade of reform efforts to limit the use of detention, the 1982 Children in Custody survey documented the highest number of youth residing in detention since 1971 despite fewer admissions." (Barry Krisberg, et al, "Watershed of Reform," *Crime & Delinquency,* January, 1986)

". . . detention stays are extremely expensive, averaging $90–$100 per day." (Barry Krisberg, et al, "Watershed of Reform," *Crime & Delinquency,* January, 1986)

"Colorado and California were reporting severe overcrowding in their training schools." (Barry Krisberg, et al, "Watershed of Reform," *Crime & Delinquency,* January, 1986)

"Another disturbing trend is that the states with the highest detention rates showed little inclination to curtail their detention practices. Between 1979–1982 California experienced a 30% increase in the number of youth detained." (Barry Krisberg, et al, "Watershed of Reform," *Crime & Delinquency,* January, 1986)

"Studies indicate that between 400,000 and 530,000 juveniles have been admitted annually to secure detention facilities throughout the U.S." ("Detention: New Study," *Juvenile Justice Digest,* July 28, 1986)

". . . admission rates to secure detention in 1979 varied from a high of 5,685 per 100,000 eligible youth in Nevada to a low of 256 per 100,000 eligible youth in South Carolina." ("Detention: New Study," *Juvenile Justice Digest,* July, 1986)

"A 1980 survey of selected counties across the U.S. found that more than half of all juveniles detained would have been ineligible for secure detention based upon criteria recommended by the National Advisory Committee on Juvenile Justice and Delinquency Prevention. ("Detention: New Study, "*Juvenile Justice Digest,* July, 1986)

"In 1982, there were 390 juvenile detention centers in the U.S. Virtually all of these (97%) were classified as being physically secure. The total staff compliment of these detention centers was 12,621, and their annual operating costs were $313,584,242." ("Detention: New Study, "*Juvenile Justice Digest,* July 28, 1986)

"It was reported that 13 detention centers in Florida and seven in California were chronically overcrowded." (Detention: New Study," *Juvenile Justice Digest,* July 28, 1986)

"While the number of detention admissions has been dropping, the number of youth found in one-day counts of detention center residents has increased." ("Detention: New Study," *Juvenile Justice Digest,* July 28, 1986)

"The number of juveniles committed (or sentenced) to detention centers has substantially increased. In 1977, there were 4,084 juveniles committed to detention centers. By 1982, that number had increased to 21,027." (Detention: New Study," *Juvenile Justice Digest,* July 28, 1986)

"In fact, minority youth now comprise more than 50 percent of all juveniles detained on a given day." ("Detention: New Study," *Juvenile Justice Digest,* July 28, 1986)

"Cannon and Stanford (1981) found a 19% rearrest rate among restitution cases over a six month period compared with a 24% rate for the nonrestitution groups. Hofford (1981) reported an 18% recidivism rate for youths in the juvenile restitution program compared with a 30% rate for those in regular probation." (Anne L. Schneider and Peter R. Schneider, "The Impact of Restitution on Recidivism of Juvenile Offenders," *Journal of Criminal Justice Research,* 1985)

The 1979 national average cost for the care and housing of juvenile offenders in state correctional facilities was *over $30,000 per child per year.* In some larger states, such as California, the cost for each juvenile interned in state facilities *reached $60,000 annually.* It must be stressed that the costs of juvenile internment in state facilities are significantly greater today. (According to Department of Justice figures delivered in testimony before the House Committee on Education and Labor, March 19, 1980)

In the past five years alone (1981–1985) there have been 74 juvenile deaths through homicide and suicide in state correctional facilities. (*Correction Yearbook*), Criminal Justice Institution Inc., Kamp, 1986)

"Most reformatories fail to reform . . . they make no appreciable reduction in the very high recidivism rates, on the order of 70–80%." (Peter W. Greenwood, *One More Chance,* The Rand Corporation, May, 1985)

"Typical placement in most states for chronic juvenile delinquents are training schools or reformatories . . . the atmosphere within these institutions is very much like that of a prison . . . hardened offenders are just doing time . . . principal influence on the inmates comes from their peers and not the staff . . . in this atmosphere violence, intimidation, and sexual exploitation thrive." (Peter W. Greenwood, *One More Chance,* The Rand Corporation, May, 1985)

Mental Health

"It is estimated that 7.5 million children, almost 12% of the children and adolescents in the United States, suffer from an emotional disturbance that requires treatment services." (Leonard Saxe, Ph.D., *Children's Mental Health: Problems and Treatment,* May 2, 1985)

"Although perhaps only 5% of our under 18 year-olds have a severe mental disorder and require intensive mental health services such as hospitalization, the prevalence for such severe disorders translates to three million children." (Leonard Saxe, Ph.D., *Children's Mental Health: Problems and Treatment,* May 2, 1985)

". . . race, rather than level of psychopathological or presence of aggressive behavior, was the single variable which predicted best whether a juvenile would be incarcerated in a juvenile detention rather than a mental health facility." (Lois A. Weithorn, Memorandum to Conference on Litigation Advocacy on Behalf of Handicapped Children, May 28, 1985)

"According to Guttridge's data (1981), children in state facilities in California were more likely to be committed by the state (84.3%), were more likely to have a serious psychiatric disorder (e.g., psychosis), were more likely to be of lower socioeconomic status and therefore have little private insurance, and were more likely to have a brief stay (mean = 13 days) that were children in private facilities." (Lois A. Weithorn, Memorandum to Conference on Litigation Advocacy on Behalf of Handicapped Children, May 8, 1985)

Foster Care

"An estimate for the number of children in foster care was 274,000 for fiscal year 1982." (*Adoption Fact Book*, WCFA, 1985)

"Approximately 425,000 children were in foster care at least one day during FY 1982." (*Adoption Fact Book*, WCFA, 1985)

"There were approximately equal numbers of males and females in foster care." (*Adoption Fact Book*, WCFA, 1985)

"The mean age of children in foster care was 10.1 in December, 1982." (*Adoption Fact Book*, WCFA, 1985)

"The percentage of the foster care population which was minority was 46 percent for FY 1982." (*Adoption Fact Book*, WCFA, 1985)

"About 25 percent of the foster care population is handicapped." (*Adoption Fact Book*, WCFA, 1985)

"The mean duration of placement has declined in the last five and half years, from 47 months in 1977 to 35 months in December, 1982." (*Adoption Fact Book*, WCFA, 1985)

"Over one-third (36%) of the white children but over one-half of the black children (55.6%) were in care for two years or more." (*Adoption Fact Book*, WCFA, 1985)

"About 70 percent of children in foster care reside in foster family homes." (*Adoption Fact Book*, WCFA, 1985)

"Three-fourths of the children entered foster care because of family related reasons and over three-fourths of these were for abuse and neglect." (*Adoption Fact Book*, WCFA, 1985)

"Twenty percent of the children re-enter the foster care system within one year of discharge from foster care." (*Adoption Fact Book*, WCFA, 1985)

"Slightly more than half the children in foster care experience only one placement setting while in continuous substitute care. Over one-fourth (27%) experience three or more placement settings while in continuous substitute care." (*Adoption Fact Book*, WCFA, 1985)

"Return to parents or relatives is the placement goal for 40% of the children in substitute care, while 49% actually do return home." (*Adoption Fact Book*, WCFA, 1985)

Religious Exemption

"Despite all the increased activity in courts in the past decade regarding regulation of religious schools, the law has not changed much since it was established by the Supreme Court in 1920." (James G. Carpenter, "State Regulation of Religious Schools," *Journal of Law and Education*, April, 1985)

"A parent has a fourteenth amendment right to bring up his children free from reasonable state restrictions on their education, including religious education. In order to be reasonable, state regulations must not obliterate the distinctions between public and private education." (James G. Carpenter, "State Regulation of Religious Schools," *Journal of Law and Education*, April, 1985)

"Parents also have a free exercise of religion right under the first amendment to oversee the religious upbringing of his children. This right is distinct from that under the fourteenth amendment and serves to protect the parent from being compelled by the state to educate his children in a way violating his genuine religious convictions, unless government can show a compelling state interest." (James G. Carpenter, "State Regulation of Religious Schools," *Journal of Law and Education*, April, 1985)

"The Census Bureau estimates that enrollments in non-Catholic private schools increased from 615,548 in 1965 to 1,433,000 in 1975." (Patricia M. Lines, "State Regulation of Private Education," *Phi Delta Kappan*, October, 1982)

"Using techniques designed to locate all hard-to-find schools in a sample of 22 counties, Bruce Cooper and Donald McLaughlin estimate that there are 15,000 non-Catholic private schools in the U.S., serving two million children; they estimate that enrollments in these schools are increasing at a rate of 100,000 per year. It seems likely that the largest growth in attendance has occurred among small, unaccredited schools." (Patricia M. Lines, "State Regulation of Private Education," *Phi Delta Kappan*, October, 1982)

"The scant amount of available evidence from standardized tests suggests that these unaccredited alternatives are educationally adequate. Test scores introduced as evidence in a few lawsuits suggest that children's performances improve after they are enrolled in unauthorized educational programs." (Patricia M. Lines, "State Regulation of Private Education," *Phi Delta Kappan*, October, 1982)

With that, I would like to call before the committee the first panel made up of Mark Soler, who is the director of the Youth Law Center in San Francisco; Diane Shust, who is the senior supervising attorney, Juvenile Services Program in the Public Defender Service in Washington, DC.; Diane Weinroth, who is a member of the steering committee, Child Advocacy and Protection Committee, the Bar Association of the District of Columbia; Pat Hanges, who is a youth advocate, from Francis House, Baltimore, MD; and Judy Guttridge, who is a parent from Baltimore, MD.

If you will come forward, we will take you in the order in which I called your name.

Mark, we will begin with you.

STATEMENT OF MARK SOLER, DIRECTOR, YOUTH LAW CENTER, SAN FRANCISCO, CA

Mr. SOLER. Mr. Chairman, my name is Mark Soler. I am the executive director of the Youth Law Center, a public interest law office located in San Francisco.

During the past 8 years, the center's six staff attorneys and I have worked with public officials, parents, community groups, attorneys, and other children's advocates in more than 40 States, primarily in the areas of juvenile justice, foster care, education, and mental health. We have also litigated successfully in 14 States to stop abuses, assaults, and other violations of children's civil and constitutional rights.

I would like to speak about the problems my colleagues and I have seen of children in State care.

Our home community of San Francisco is a microcosm of the problems we have seen throughout the country. The San Francisco Juvenile Detention Center, the Youth Guidance Center, is a large dilapidated, prison-like structure.

Built in 1950, it has been the subject of numerous studies and reports, all of which have documented the oppressiveness and inadequacy of its physical plant and the poor administration of its program.

On February 14 of this year, a 17-year-old boy named Robert committed suicide by hanging himself with a noose fashioned from a sweatshirt. He had been in the facility 30 days.

More than 2 weeks before the boy's death, social workers at that facility became aware that Robert was having bizarre thoughts, and referred the matter to the staff psychiatrist. The psychiatrist never saw Robert.

On February 13, Robert was put in his cell for disrupting the breakfast meal. He was confined there all day, over night, and during the morning of February 14.

After lunch, he banged on his door for several minutes, calling for the senior counselor to ask how long he would have to stay in his room. The senior counselor was busy and never talked with Robert.

Between 10 and 20 minutes later, another counselor found Robert hanging from the wall.

The tragedy did not end there. Five days later Robert's cell had not yet been cleaned up of bodily wastes, so a staff member selected two boys in the facility, ages 12 and 14, to clean up the room.

The odor was so intense that the staff member covered his face with a bandana and the two boys plugged their nostrils with cotton.

I have attached to my statement newspaper accounts of these events.

Foster care in San Francisco is, if anything, in worse shape. San Francisco has roughly 1,800 children in foster care, 1,300 of whom are placed outside the city.

Nathan Moncrieff, born to a heroin-addicted mother, was kept in a temporary home for 13 months by the San Francisco Department of Social Services before being placed by an adoption agency with an Oakland couple.

In June of this year, Nathan was beaten-to-death in the home. The social workers for the adoption agency and for the San Francisco agency did not learn, or learned but did not report, that one of the individuals had a felony record, which disqualified him under California law.

Both men have been charged with murder.

Nathan Moncrieff's death prompted investigations by the San Francisco Mayor's Office and the State Department of Social Services, both of which found that practices and procedures within the Department of Social Services played roles in the deaths of six of the eight children who died in foster care during the past 2 years. The State agency also investigated a number of other cases handled by the San Francisco Department of Social Services. It concluded that San Francisco DSS violated State or Federal regulations in a substantial number of the cases.

These tragedies are not isolated events.

In juvenile correctional facilities, isolation, official neglect, abuse and suicide of children are all too common. My colleagues and I have represented a 15-year-old girl, ordered into an Ohio jail for 5 days for running away from home, who was raped by a deputy jailer; children held in an Idaho jail, where a 17-year-old was incarcerated for not paying $73 in traffic fines, then was beaten-to-death over a 14-hour period by other inmates; and parents in Kentucky and California whose children committed suicide in jails.

We have seen children in an Arizona juvenile detention center tied hand and foot to their beds, and a Washington State facility in which two children were held for 5 days at a time in a cell with only 25 square feet of floor space.

We have seen children hogtied in State juvenile training schools in Florida—wrists handcuffed, ankles handcuffed, then placed stomach down on the floor, and wrists and ankles joined together behind their backs. In the training school in Oregon children were put in filthy, roach-infested isolation cells for weeks at a time.

In the Idaho training school, children were punished by being put in strait jackets, and being hung, upside down, by their ankles.

Abuse in the foster care system is also not confined to San Francisco. In Contra Costa County, across the Bay Bridge from San Francisco, foster parents were found to have held a hot curling iron to the lips of a child as punishment for playing with matches, and to have forced the child to eat red pepper sauce for wetting his bed.

In Kentucky, we represent a handicapped child who was regularly deprived of food and care, so that at 8 years of age he weighed only 17 pounds.

The day-to-day tragedy of the foster care system, children languishing in care for years without ever having a permanent home or a chance for stability, goes on everywhere.

Abuses also occur in mental health and educational systems. In the State mental hospital in South Carolina, children who attempted to commit suicide were stripped to their underwear, bound by their ankles and wrists to the corners of their beds, and injected with psychotropic drugs.

In the Phoenix Indian High School in Arizona, Indian children found intoxicated on school grounds were handcuffed to the fence surrounding the institution, and left there overnight.

In a private treatment and special education facility in Utah, children were locked in closets for punishment, grabbed by the hair and thrown against walls, and given lie-detector tests as part of their therapy.

We know about these practices because we have had to litigate to stop them, often with local attorneys and with other programs like the Legal Services Corporation-supported National Center for Youth Law.

I have also attached articles on some of these practices to my statement.

What are we to make of this? How can we put these horrors in perspective? What are the underlying causes?

Four factors seem to be particularly important:

First, there has been a failure of leadership at the Federal level, particularly in the area of juvenile justice. The Office of Juvenile Justice and Delinquency Prevention squanders its money on bizarre projects like the study of cartoons and pictures in back issues of Playboy, Penthouse, and Hustler, while putting enforcement of the Juvenile Justice Act's prohibition against jailing children on the back burner.

In the past 5 years the Office of Juvenile Justice made no real effort to monitor State compliance with the Federal law. Local officials throughout the country have told me that despite open violations of the act, they have no fear of Federal audits or funding cutoffs.

In foster care, the Department of Health and Human Services has failed to promulgate meaningful regulations to implement the Adoption Assistance and Child Welfare Act. It has applied even the minimal Federal regulations that were developed in an inconsistent and arbitrary manner, resulting in confusion among State officials and only token implementation of the laws protecting children.

There is no clear Federal voice as to what is required under Public Law 96-272.

Second, the Federal statutes themselves contain virtually no enforceable standards of care or safety for children in State care. The Adoption Assistance Act establishes procedural safeguards for children in foster care, but no substantive standards for children placed out of their homes.

In 1981 the Supreme Court declared that the Bill of Rights provisions of the Developmentally Disabled Assistance and Bill of Rights Act are advisory not mandatory.

The Juvenile Justice and Delinquency Prevention Act's prohibition on holding children in adult facilities is flagrantly violated every day throughout the country. It is being violated today, this very minute, a few blocks from here, in the basement of the D.C. Superior Court cell block, the same cell block in which an 11-year-old boy was sexually assaulted by other inmates 2 years ago.

Third, with no consistent Federal standards or monitoring, many State and local systems for children in care do not even come close to fulfilling their basic responsibilities. Many juvenile justice systems are oriented toward punishment, not treatment.

Researchers at the National Council on Crime and Delinquency and at the Center for the Study of Youth Policy at the University of Minnesota have demonstrated trends over the last decade toward increased use of formal juvenile court procedures, longer confinements in juvenile detention centers and State training schools, and increased incarceration of black and Hispanic youth. All this occurred during a period when the youth population and the number of juvenile arrests—including those for the most serious offenses—have been declining.

Local officials perceive that voters want tough measures taken against all wayward children, whatever the offense, so they add beds to existing institutions, and build even larger new facilities, ignoring community-based placements that are more humane, more effective, and less costly.

In foster care, the most basic requirements of Public Law 96-272 are being violated very day. Social services workers, some with impossibly high case loads, often make no efforts, reasonable or otherwise, to prevent families from being broken up.

Six-month reviews often take 30 seconds or less, after which children are shuffled off, out of sight and out of mind, for another half year of their lives.

Researchers at the Chapin Hall Center for Children at the University of Chicago found that in Illinois, many children are still spending 5 years in foster care despite the protective measures established in Public Law 96-272. Indeed, much of their research indicates that passage of the Federal Adoption Assistance Act has had no appreciable effect on the length of time many children spend in foster care.

In the mental health area, the Children's Defense Fund has documented the minimal efforts by State agencies to provide basic services, monitor the care of children in hospitals and other mental health institutions, or even develop a policy focus on children and adolescents. Children in private facilities—whether placed by juvenile courts, social service agencies, mental health departments—are often not monitored at all by Government agencies.

Fourth, in all of these systems, the underlying problem is often the fragmentation and lack of coordination of services for children. This fragmentation is everywhere.

Some children are labeled dependent or neglected and are placed under the jurisdiction of the Department of Social Services, other children are labeled delinquent and are under the Juvenile Court or Probation Department, still others are given psychiatric label and sent to the Department of Mental Health.

Indeed, the same child may get different labels at different times, depending upon the point at which he enters the system. In reality all of these children may have serious emotional problems, and all certainly come from families or other living situations marked by acute crises.

This labeling approach creates barriers to the delivery of services. Department of Social Services resources, such as foster care and group homes, are not readily available to delinquent children. Intensive psychiatric services are not provided to neglected children who need them.

Children sit in juvenile corrections or mental health institutions for weeks, even months, awaiting placement in community-based programs more appropriate to their needs.

In the worst cases, agencies ignore the needs of the most unwanted children, or dump them in the laps of other agencies. For example, it is common for mental health agencies to refuse to accept delinquent children who have histories of aggressive behavior, no matter how compelling the children's mental health needs, so that children are warehoused in large correctional institutions.

The situation is not hopeless, and there are certainly bright spots. Massachusetts closed its large juvenile correctional institutions 15 years ago. Utah has followed suit. And Colorado and some other States are determined to shift to small, community-based facilities.

In California, where as many as 100,000 children may be held in jails and police station lockups each year, the legislature has passed a major reform bill that will end the incarceration of children for any period of time in county jails, and put a 6-hour maximum on detentions in police lockups.

At the Youth Guidance Center in San Francisco, a new administration seems genuinely committed to creating a caring and effective program for children in trouble.

In the foster care area, successful family preservation programs like Homebuilders in Seattle, WA, are being duplicated in other States. In North Carolina and Delaware, case management systems have been established, so that children may receive a variety of individual, family, mental health, and educational services according to their needs, independent of the name of the particular agency that first began providing their care.

In all of these areas—juvenile justice, foster care, mental health, education—children's advocates have monitored programs, investigated abuses, and brought about much-needed reforms.

In general, however, children in State care are often children in danger of official abuse. Dr. Jerome Miller, who pioneered the juvenile justice reforms in Massachusetts 15 years ago, has often said that the standard for treatment of children in State care should be the treatment we would want our own children to receive in times of crisis.

By that standard, we are failing many, many thousands of children each year, creating instead an underclass of children rejected by their families, their communities, and society as a whole.

At the very least, we need determined enforcement of existing laws to protect children at the Federal, State and local levels, and encouragement of efforts at innovation and reform. Instead, we are running the risk not only of losing a substantial part of the next generation, but of many generations to come.

Thank you very much.

[Prepared statement of Mark Soler follows:]

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School in Arizona, Indian children found intoxicated on school grounds were handcuffed to the fence surrounding the institution and left there overnight. In a private treatment and special education faclity in Utah, children were locked in closets for punishment, grabbed by the hair and thrown against walls, and given lie detector tests as part of their "therapy." We know about these practices because we have had to litigate to stop them, often with local attorneys and with other programs like the Legal Services Corporation-supported National Center for Youth Law. I have also attached articles on some of these practices to my statement.

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Adoption Assistance and Child Welfare Act. It has applied even the minimal federal regulations that were developed in an inconsistent and arbitrary manner, resulting in confusion among state officials and only token implementation of the laws protecting children. There is no clear federal voice as to what is required under Public Law 96-272, the Adoption Assistance and Child Welfare Act.

Second, the federal statutes themselves contain virtually no enforceable standards of care or safety for children in state care. The Adoption Assistance Act establishes procedural safeguards for children in foster care, but no substantive standards for children placed out of their homes. In 1981 the Supreme Court declared that the "Bill of Rights" provisions of the Developmentally Disabled Assistance and Bill of Rights Act are "advisory," not mandatory. The Juvenile Justice and Delinquency Prevention Act's prohibition on holding children in adult facilities is flagrantly violated every day throughout the country. It is being violated today, this very minute, a few blocks from here, in the basement of the D.C. Superior Court cellblock, the same cellblock in which an 11-year-old boy was sexually assaulted by other inmates two years ago.

Third, with no consistent federal standards or monitoring, many state and local systems for children in care do not even come close to fulfilling their basic responsibilities. Many juvenile justice systems are oriented toward punishment, not treatment. Researchers at the National Council on Crime and Delinquency and at the Center for the Study of Youth Policy at the University of Minnesota have demonstrated trends over the last decade toward increased use of formal juvenile court procedures, longer confinements in juvenile detention centers and state training schools, and increased incarceration of black and Hispanic youth. All this occurred during a period when the youth population and the number of juvenile arrests (including those for the most serious offenses) have been declining. Local officials perceive that voters want tough measures taken against all wayward children, whatever the offense, so they add beds to existing institutions and build even larger new facilities, ignoring community-based placements that are more humane, more effective, and less costly.

In foster care, the most basic requirements of Public Law 96-272 are being violated every day. Social services workers, some with impossibly high caseloads, often make no efforts, "reasonable" or otherwise, to prevent families from being broken up. Six-month reviews often taken 30 seconds or less, after which children are shuffled off, out of sight and out of mind, for another half year of their lives. Researchers at the Chapin Hall Center for Children at the University of Chicago found that in Illinois, many children are still spending five years in foster care despite the protective measures established in Public Law 96-272. Indeed, much of their research indicates that passage of the federal Adoption Assistance Act has had no appreciable effect on the length of time many children spend in foster care.

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Fourth, in all of these systems, the underlying problem is often the fragmentation and lack of coordination of services for children. This fragmentation is everywhere: some children are labeled "dependent" or "neglected" and are placed under the jurisdiction of the Department of Social Services, other children are labeled "delinquent" and are under the Juvenile Court or Probation Department, still others are given psychiatric label and sent to the Department of Mental Health. Indeed, the same child may get different labels at different times, depending upon the point at which he enters the system. In reality, all of these children may have serious emotional problems, and all certainly come from families or other living situations marked by acute crises.

This labeling approach creates barriers to the delivery of services. Department of Social Services resources, such as foster care and group homes, are not readily available to "delinquent" children. Intensive psychiatric services are not provided to "neglected" children who need them. Children sit in juvenile corrections or mental health institutions for weeks, even months, awaiting placement in community-based programs more appropriate to their needs. In the worst cases, agencies ignore the needs of the most unwanted children, or dump them in the laps of other agencies. For example, it is common for mental health agencies to refuse to accept "delinquent" children who have histories of aggressive behavior, no matter how compelling the children's mental health needs, so that children are warehoused in large correctional institutions.

The situation is not hopeless, and there are certainly bright spots. Massachusetts closed its large juvenile correctional institutions 15 years ago, Utah has followed suit, and Colorado and some other states are determined to shift to small, community-based facilities. In California, where as many as 100,000 children may be held in jails and police station lockups each year, the legislature has passed a major reform bill that will end the incarceration of children for any period of time in county jails, and put a 6-hour maximum on detentions in police lockups. At the Youth Guidance Center in San Francisco, a new administration seems geniunely committed to creating a caring and effective program for children in trouble.

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[Child Advocate's Report on Elan, Child Advocate Public Document 81-102 dated May 7, 1981, and response is maintained in committee files.]

San Francisco Chronicle Saturday, February 15, 1986

BAY AREA REPORT

Youth Kills Himself At Guidance Center

A 17-year-old inmate at San Francisco Youth Guidance Center commited suicide, using his sweatshirt to hang himself, authorities said.

A center representative said the teenager, whose offenses apparently were very minor, was alone in his room at the time. The boy had been in the facility for a month, and had shown no previous signs of psychological problems, authorities said.

San Francisco Chronicle Monday, February 24, 1986

S.F. Guidance Center

Horrid Aftermath To Youth's Suicide

By Bill Wallace

Two young inmates were ordered to clean up the mess left when a third boy hanged himself in San Francisco's Youth Guidance Center, The Chronicle has learned.

One of the boys in the cleanup crew was 12 years old and the other was 14, officials acknowledged.

Dennis Sweeney, who as San Francisco's chief juvenile probation officer supervises the center on Woodside Avenue, has ordered an investigation.

"It was certainly poor judgment on my staff's part, if nothing else," Sweeney said. "We are looking into it very carefully to find out just how it happened and who was responsible. We want to make sure nothing like this ever happens again."

On February 14, a 17-year-old inmate awaiting transfer to the Juvenile Court's Log Cabin School in La Honda committed suicide by hanging himself with a noose fashioned from a sweat shirt.

Police are investigating the suicide, said homicide Inspector Jeff Broech. Supervisor Doris Ward has asked Mayor Dianne Feinstein to order the Mayor's Criminal Justice Committee look into the circumstances of the suicide.

Police and coroner's investigators removed the youth's body and took evidence. The room was locked, but no attempt was made to clean up bodily waste.

"When we left, the death scene was sealed," said Broech. "It remained sealed for several days afterward."

Workers at the guidance center began to complain of a foul odor coming from the room. At around 9 p.m. Wednesday, five days after the suicide, a staff member selected two inmates from a low-security unit to help him clean the room.

Sweeney refused to identify the staff member.

The odor was so intense that the staff member supervising the cleanup covered his face with a bandana and the two boys plugged their nostrils with cotton, according to Joseph Spaeth, an assistant San Francisco public defender who works at Juvenile Hall.

"As I understand it, one of the boys said the incident had really bothered him," said Spaeth. "I've been told that one knew the kid that committed suicide.

"It was atrocious, simply callous to expose young boys to something like this. As far as I'm concerned, it borders on child abuse."

Sweeney said he could not assess what psychological effect the occurrence may have had on the boys.

The city's 30-year-old Juvenile Hall building has been a frequent target of criticism. A management audit in late 1983 concluded that it was obsolete and unsafe and recommended a host of administrative reforms.

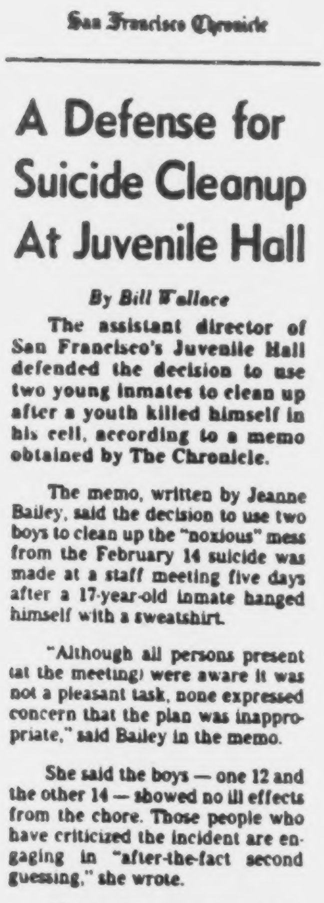
A year later, the Youth Guidance Center was again strongly criticized in a report by a mayor's committee. It proposed administrative changes, including improved techniques for preventing suicides.

The study also said a new structure should be built.

Last spring, the U.S. Justice Department announced it was probing allegations of child abuse, violence and overcrowding at the center under the Civil Rights of Institutionalized Persons Act of 1980. As yet, no findings have been revealed.

In an attempt to deal with the center's long-standing problems, Juvenile Court officials have started a sweeping renovation "that will not only involve completely rebuilding the physical plant, but also reprogramming its administration," Sweeney said.

The city committed $3 million late last year for rebuilding the center. Sweeney has predicted that the renovation will cost $40 million.



San Francisco Chronicle

A Defense for Suicide Cleanup At Juvenile Hall

By Bill Wallace

The assistant director of San Francisco's Juvenile Hall defended the decision to use two young inmates to clean up after a youth killed himself in his cell, according to a memo obtained by The Chronicle.

The memo, written by Jeanne Bailey, said the decision to use two boys to clean up the "noxious" mess from the February 14 suicide was made at a staff meeting five days after a 17-year-old inmate hanged himself with a sweatshirt.

"Although all persons present (at the meeting) were aware it was not a pleasant task, none expressed concern that the plan was inappropriate," said Bailey in the memo.

She said the boys — one 12 and the other 14 — showed no ill effects from the chore. Those people who have criticized the incident are engaging in "after-the-fact second guessing," she wrote.

After receiving a copy of the memo from Bailey, Assistant Public Defender Joe Spaeth asked Bailey's boss, Chief Juvenile Probation Officer Dennis Sweeney, to remove her from authority at Juvenile Hall.

"I am very concerned . . . that a person of (her) position and experience condones what I continue to believe was inexcusable and abusive treatment of two young boys," Spaeth said in a letter to Sweeney.

"I can only conclude that she is unfit to work in Juvenile Hall. I urge you to take the appropriate steps to remove her from a position of authority."

Bailey responded: "Mr. Spaeth has a right to his own opinion, but it is an administrative and personnel matter. He may or may not have sufficient information on which to base his remarks."

Sweeney said the matter is under investigation, "and it would be premature to discuss our findings at this point."

S.F. Juvenile Hall Chief Transferred

By Bill Wallace
and Maitland Zane

The director of San Francisco Juvenile Hall has been given another job after two young inmates were ordered to clean up the cell where a 17-year-old youth killed himself.

Robert Foote, 59, will become a traffic hearing officer for San Francisco Juvenile Court next month. He will be replaced as director of Juvenile Hall by Don Carlson, 55.

The transfer was ordered Wednesday by Daniel Weinstein, the presiding judge of Juvenile Court. Foote could not be reached last night for comment on his reassignment.

Foote's boss, Chief Juvenile Probation Officer Dennis Sweeney, said Foote had requested the transfer himself. The move was not punitive, Sweeney said.

Foote's reassignment comes two weeks after a 17-year-old youth awaiting transfer to another facility hanged himself in his cell.

The suicide was the first to occur at Juvenile Hall under Foote's administration, Sweeney said.

ROBERT FOOTE
He'll hear traffic cases

The youth's cell was sealed after the death. Five days later, two inmates in the Youth Guidance Center's low-security unit were ordered to help a Juvenile Hall staffer clean up the traces of the messy suicide.

One of the boys used in the clean up was 12 years old. The other was 14.

In an interview with The Chronicle, Sweeney said Foote "instructed that the room (cell) be cleaned, but he did not give the order that these two boys should be used. We're still trying to determine how these particular children were chosen."

After the suicide, "Foote had requested that he be reassigned within the Juvenile Probation Department," Sweeney said.

"In explaining the reason for his request, Foote has commented that the extraordinarily stressful working conditions created by the suicide and related incidents have exacerbated 'health related' problems."

The suicide and clean-up have created a firestorm of criticism. Supervisor Doris Ward has asked the Mayor's Criminal Justice Committee to investigate the two incidents, and prepare a detailed report on how they occurred and what can be done to prevent a recurrence.

Sweeney, who has overall responsibility for operation of the Youth Guidance Center, has ordered his own probe of the two episodes.

During his 20 years as director of Juvenile Hall, Foote has occasionally been the focus of controversy.

While serving as acting superintendent in 1966, he drew criticism for slapping four female Juvenile Hall inmates he said were engaging in "wild and riotous behavior."

Foote explained the action by saying the girls had become "hysterical," and he had to slap them to restore order. His actions were supported by Chief Juvenile Probation Officer Elmer Gaetjen, his boss.

Two years ago, Foote was criticized when Superior Court Judge Maxine Chesney revealed that some of the housing units at Juvenile Hall were being left unstaffed at night.

Foote quickly reassigned staff members to provide round-the-clock supervision after the situation was reported in local newspapers.

He will move to his new job on March 17, and will continue to receive his current salary of $46,980.

Quiet Rally Calls for Reform at Juvenile Hall

By Michael Harris

A 15-year-old boy who attempted suicide at San Francisco's Youth Guidance Center was locked in his cell without being hospitalized or receiving psychiatric treatment, his mother charged yesterday.

"I stopped a psychiatrist in the hall, and he told me my son was just trying to get attention," said Vivi Lazarus, a local advertising woman, recalling the 2-year-old incident.

Last month, she added, her son was back in the center, where she said he watched the body of another youth being removed from a cell after the boy had committed suicide.

She said her son also witnessed two young boys clean up the blood and other debris several days after the suicide.

Lazarus was among 40 protesters who staged a quiet rally in the lobby of the Youth Guidance Center urging immediate reforms at the troubled institution.

"Conditions at the center are intolerable and require immediate attention," said Margaret Brodkin, executive director of Coleman Advocates for Children and Youth.

Brodkin complained that city officials keep talking about the need for a new building to replace the 35-year-old center on Woodside Avenue instead of placing attention "where it matters — not on the shortcomings of the physical plant but how youths are treated there."

Joseph Spaeth, an assistant public defender who is assigned to the center, said officials are so security-conscious that the young people confined there do not receive proper outdoor exercise.

No officials of the center were invited to the rally, which Brodkin said was designed in part to support the attempts of Superior Court Judge Daniel Weinstein and Chief Juvenile Probation Officer Dennis Sweeney to overcome bureaucratic inertia that she said has been blocking reforms.

March 12, 1986

San Francisco Chronicle Saturday, March 22, 1986

S.F. Judge's Plans to Reform Juvenile System

By Michael Harris

Dramatic changes have been ordered by San Francisco's presiding Juvenile Court judge in dealing with young people in trouble with the law and in caring for kids who need someone to protect them.

"Keeping minors under present conditions is intolerable," Superior Court Judge Daniel Weinstein said in an interview. "We've waited too long to make changes."

After years of hearing about problems at the Youth Guidance Center, the state Legislature appropriated $3 million last year to help San Francisco reform its juvenile justice program.

Weinstein, who took over leadership of the Juvenile Court last summer, said a planning organization will be chosen next month to provide practical suggestions on what to do with the 40-year-old complex on Woodside Avenue.

"If we can do what has to be done with the $3 million, that's great," Weinstein said. "We don't want to drain away any dollars from the program of caring for the kids. But if we need more money, we'll lobby to get it."

The problems at the institution were dramatized last month when a 17-year-old hanged himself and officials ordered two boys, ages 12 and 14, to clean up the mess in his cell.

The incident was followed by the end of the long career of Robert Foote as head of Juvenile Hall, the section of the center where young men and women are incarcerated.

Some changes will not have to wait for new construction, Weinstein said. Recent improvements range from scrubbing down grimy walls to speeding up the handling of cases of dependent children.

"These are kids who have done nothing wrong," Weinstein said. "We have to undertake preventive care for a month-old baby left in a garbage can, infants who have been severely beaten, children who start life with an alcohol syndrome and addicts' babies born with drugs in their veins."

Children up to 5 or 6 years old make up about 80 percent of the dependent children who come to the court's attention. The number of dependency cases has grown to 1500 a year.

"We deal with everything here," Weinstein said. "At the other end of the spectrum from the dependent children, we have a couple of 16- and 17-year-olds who tied up the occupants of a home, stripped the house and threatened a woman sexually.

"They are part of a dangerous group of young people who do a high percentage of the crime committed in the city. They constitute about 10 percent of the youths detained in the Youth Guidance Center and have to be dealt with swiftly and securely."

Many young people spend most of their time locked in small, individual cells. Weinstein emphasized that security will remain tight for the violent minority.

Weinstein said it is foolish to write off kids who get into trouble.

"I can cite many success stories," he said. "Part of the success may be a matter of hormones, but much is due to the fact that we have some damn good probation officers.

"We do a substantial amount of good. It's clear we could do much better."

34 ★★★★ San Francisco Chronicle Friday, April 11, 1986

S.F. Youth Center Making Changes

By Michael Harris

The two top officials of San Francisco's long-troubled Youth Guidance Center agreed yesterday with critics who said changes are needed — and reported that some have already been accomplished.

"Nothing would please us more than to come back in six months, when we hope we will be well on our way," Superior Court Judge Daniel H. Weinstein said at the close of a three-hour hearing before the Human Services Committee of the Board of Supervisors.

Weinstein, presiding judge of Juvenile Court, responded to a charge by James Bell, an attorney for the Youth Law Center, who protested that many youths are detained unnecessarily at the center on Woodside Avenue near Portola Drive.

"Approximately 50 percent are released within 72 hours," Bell said, quoting the center's annual report. "Few of these young people have been charged with violent felonies. Why were they detained?"

Weinstein said that in recent months the center has moved swiftly in increasing home detention for youths and has reduced the number forced to stay "in the dismal, dour surroundings we work in."

The judge rejected suggestions from some of the 22 witnesses at the hearing who testified that the center be closed.

"We have a responsibility to protect the public, too," Weinstein said. He added that some of the youths detained at the center are severely troubled and have no homes to go to.

Supervisor Doris M. Ward prepared for the hearing by drawing up a set of resolutions asking for several immediate improvements. The committee accepted her motion to have Weinstein report back in six months but took no action on the others after Dennis Sweeney, the city's chief juvenile probation officer, said some of the supervisor's proposals are already being carried out.

Ward urged the prompt construction of privacy screens in front of toilets used by boys at the center. The demand for the screens came after women counselors were stationed with a clear view of the washrooms in the boys' cell areas.

Similar screens already exist in the girls' wing.

Sweeney said the screens finally went out to bid last week, more than 18 months after they were first requested.

San Francisco
Examiner

May 16, 1984

Study finds juvenile hall in trouble, recommends new detention center

By Mireya Navarro
and Norman Melnick
Examiner staff writers

Several incidents of misconduct by counselors and widespread "defects" with the present Youth Guidance Center were revealed in a summary report prepared by a mayor's investigative committee.

The report calls for construction of a new YGC, an idea suggested last December by a team of management consultants paid $60,000 to study the juvenile justice facility.

After a Mission District group complained about conditions at the YGC, the mayor organized a fact-finding committee. Most of the community group's allegations of sexual and physical misconduct by the center's staff were not proven by evidence turned up by the mayor's committee.

The nine-member committee, headed by Rotea Gilford of the mayor's Criminal Justice Council, expects to release the full report next week.

Both Mayor Feinstein and Gilford refused comment on the summary obtained by The Examiner.

The committee, which worked more than 1,000 hours during a 10-month period, including conducting more than 100 interviews, concluded in its summary that "the line and supervisory staff at Juvenile Hall are dedicated, capable and caring professionals" who work "under highly stressful conditions."

The summary also details the following episodes:

A counselor "allowed two 13-year-old boys to fight as a means to resolving a conflict."

A part-time female counselor took a male detainee, 17, to a motel "in order to engage in consensual sexual activity and marijuana smoking." The report states that the woman pleaded guilty to contributing to the delinquency of a minor and was placed on probation.

One counselor was accused of showing nude photographs in Playboy magazine to a group of detainees. The report states there was "insufficient evidence to prove or disprove" the incident.

A duty counselor was accused of entering a 14-year-old boy's room at 3 a.m. and sexually assaulting him. The report states that it was "not possible to verify the allegations."

And in still another case, a counselor and a detainee were allegedly observed engaging in oral sex. "This witness genuinely believed he saw the act, but he was honestly mistaken," according to the report. "The incident did not occur, although the investigation revealed a pattern of unprofessional conduct by the counselor in question."

Another 14-year-old boy alleged that he had been pushed to the floor by a counselor "and that the scab on his arm from a tetanus shot came loose." The report asserts that the evidence is "inconclusive" and "this incident probably did not occur in the manner described by the boy."

It was also charged that one teacher "brought in a Ku Klux Klan outfit to show his students. This could not be substantiated." The same teacher was also accused of using profanity and racial slurs, but he "has been on sabbatical leave for nearly a year and therefore was not interviewed."

Nevertheless, the committee said, the teacher has demonstrated a "serious deficiency" in relating to adolescent detainees.

The earlier report by the management consultants said there was "little evidence" of child abuse, inappropriate staff behavior or negligent handling of children. The consultants said they found "little factual information" to support charges of child mistreatment.

The summary obtained by The Examiner contains 35 recommendations, among them construction of a new juvenile hall.

When the YGC opened in 1950, the draft points out, "the rooms housing detainees were designed without toilets or sinks" and there is "a wide variety of problems associated with (a) centralized bathroom."

There are also inadequate classrooms and admissions area, no centralized visiting room or dining room, no interview rooms nor outdoor recreation area, the report says.

Moreover, there is a "woefully inadequate level of resources available to care for emotionally disturbed youth. ... A substantial number of detainees are less than seriously psychotic yet should not be housed in juvenile hall." This practice has resulted "in an inordinate number of suicidal and self-mutilation attempts."

As a result of these and other findings, the committee recommends a feasibility study on the construction of a new juvenile hall as "the structural defects in the current juvenile hall are too great to overcome by remodeling."

The committee recommends that the entire juvenile justice complex be located in one facility. It suggests that the existing building be torn down and the site leased for housing development.

This new report thus coincides with the earlier one concerning a new YGC. The consultants labeled the existing center as "outmoded, unsafe and extremely difficult to maintain and a nightmare to program effectively."

According to the mayor's task force, expansion of home supervision and increased "nonsecure detention" could result in "a much smaller (new) juvenile hall."

In the meantime, modifications of the existing plant should be made, including toilet partitions in the boys' compound. The report also recommends increasing the number of counselors and establishing a "sub-acute locked facility" for mentally disturbed youths "under the management of the Department of Public Health."

The draft also recommends establishment of a suicide prevention program, hiring an ombudsperson to hear grievances, and a diet and nutrition study to analyze food served in the center.

And it emphasizes that "staff may not allow youths to fight or to engage in 'chesting.'" It notes: "Many of these children have used their fists as their (only) way to resolve disputes. ... They must be taught alternative methods."

Mayor's Investigative Panel

May 17, 1984

S.F. Juvenile Hall Criticized

By Michael Harris

A blue-ribbon committee has concluded it can sustain two charges in a list of 10 alleged cases of abuse at the San Francisco Youth Guidance Center.

The Youth Guidance Center Committee, appointed by Mayor Dianne Feinstein to investigate charges of abuses and poor conditions at the center, has concluded, however, that the building itself is the chief problem.

In a report scheduled for release next week, the committee said that young people at the center at 375 Woodside Avenue had been abused in the following cases:

- A counselor permitted two 14-year-old boys to settle a dispute with their fists.
- A woman counselor engaged in sexual activities in Marin County with a 17-year-old boy she had met while he was confined at the Youth Guidance Center. She also smoked marijuana with the former inmate, who was still on probation at the time.

The woman, who had been working part time at the center, was arrested two years ago, chief probation officer Joseph Botka said. She pleaded guilty to contributing to the delinquency of a minor, was placed on probation and was dismissed from the staff, Botka added.

Rotea Gilford, who heads the Mayor's Criminal Justice Council and who served as chairman of the investigating committee, said it was not possible to determine whether some of the other eight charges were true or false.

In one case, Gilford said, a 14-year-old boy accused a counselor of sexually harassing him in his room at 3 a.m. Gilford reported that the man identified by the boy in a police lineup was not at the center that night and the man passed a polygraph test.

Gilford said it was possible, however, that the boy had been harassed and was mistaken only in his identification of the person responsible.

Finally, at least one charge was disproved. A youth who had said a counselor had deserted him in Sacramento while they were on their way to a home for boys had, in fact, escaped from custody, the committee found.

The mayor ordered the extensive investigation after the Council of La Raza for Education Assistance and Rehabilitation publicly charged that young people were mistreated at the center.

The committee agreed with the council that many problems in dealing with juveniles were caused by the physical plant itself, which it said had "structural defects too great to be overcome by remodeling."

The mayor's committee reached many of the same conclusions that Allen Breed, former chairman of the California Youth Authority, came to in a study completed last December. Breed and his co-author, Robert Smith, called the 37-year-old center "a monument to bad design" and urged construction of a new building to replace it.

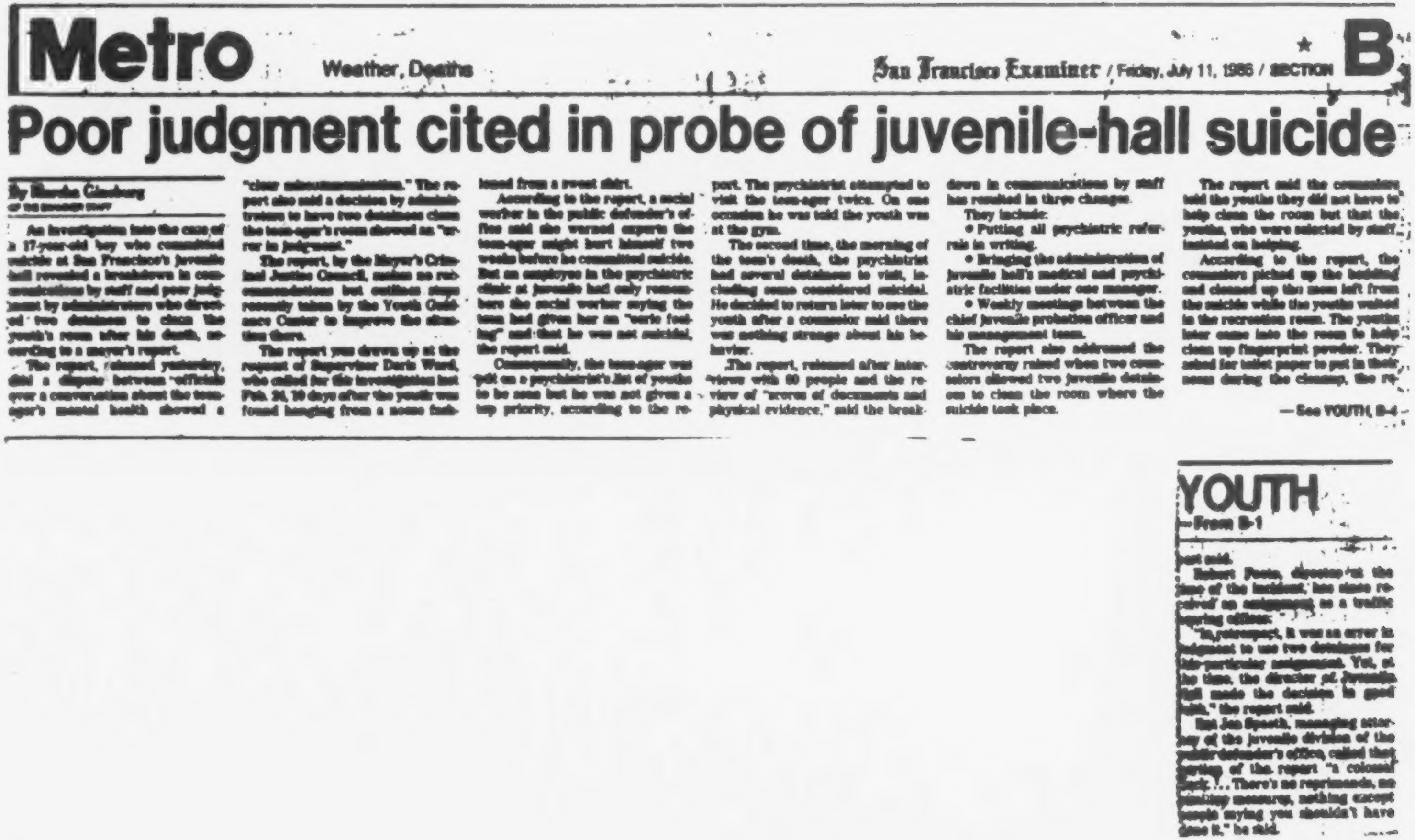
The mayor's committee, agreeing on the need for a new center, said that in the meantime some changes are possible, including the development of a plan to make proper use of the now-idle main outdoor recreation area at the center.

Its 26 recommendations included proposals for better procedures for reporting child abuse allegations and preventing suicide attempts. The committee urged an increase in professional staffing, a nutrition study and improvements in the boys' toilets.

It spoke of the need to prevent violence among the inmates.

"Many of these children have only used their fists as their way to resolve disputes during their lifetime," the committee said. "They must be taught alternative methods."

Presiding Juvenile Court Judge Daniel Hanlon commented, "We're going to take all the constructive suggestions made and implement them as far as we can with the resources available. Anyone who has been here 10 minutes would know the institution is outmoded, but we have a staff of dedicated and hardworking individuals."



Metro Weather, Deaths San Francisco Examiner / Friday, July 11, 1986 / SECTION B

Poor judgment cited in probe of juvenile-hall suicide

By Marsha Ginsburg
OF THE EXAMINER STAFF

An investigation into the case of a 17-year-old boy who committed suicide at San Francisco's juvenile hall revealed a breakdown in communications by staff and poor judgment by administrators who directed two detainees to clean the youth's room after his death, according to a mayor's report.

The report, released yesterday, cited a dispute between officials over a conversation about the teen-ager's mental health showed a "clear miscommunication." The report also said a decision by administrators to have two detainees clean the teen-ager's room showed an "error in judgment."

The report, by the Mayor's Criminal Justice Council, makes no recommendations but outlines steps recently taken by the Youth Guidance Center to improve the situation there.

The report was drawn up at the request of Supervisor Doris Ward, who called for the investigation last Feb. 24, 10 days after the youth was found hanging from a noose fashioned from a sweat shirt.

According to the report, a social worker in the public defender's office said she warned experts the teen-ager might hurt himself two weeks before he committed suicide. But an employee in the psychiatric clinic at juvenile hall only remembers the social worker saying the teen had given her an "eerie feeling" and that he was not suicidal, the report said.

Consequently, the teen-ager was put on a psychiatrist's list of youths to be seen but he was not given a top priority, according to the report. The psychiatrist attempted to visit the teen-ager twice. On one occasion he was told the youth was at the gym.

The second time, the morning of the teen's death, the psychiatrist had several detainees to visit, including some considered suicidal. He decided to return later to see the youth after a counselor said there was nothing strange about his behavior.

The report, released after interviews with 60 people and the review of "scores of documents and physical evidence," said the breakdown in communications by staff has resulted in three changes.

They include:

- Putting all psychiatric referrals in writing.
- Bringing the administration of juvenile hall's medical and psychiatric facilities under one manager.
- Weekly meetings between the chief juvenile probation officer and his management team.

The report also addressed the controversy raised when two counselors allowed two juvenile detainees to clean the room where the suicide took place.

The report said the counselors told the youths they did not have to help clean the room but that the youths, who were selected by staff, insisted on helping.

According to the report, the counselors picked up the bedding and cleaned up the mess left from the suicide while the youths waited in the recreation room. The youths later came into the room to help clean up fingerprint powder. They asked for toilet paper to put in their noses during the cleanup, the re-

— See YOUTH, B-4

YOUTH

— From B-1

port said.

Robert [illegible], director at the time of the incident, has since received an assignment as a traffic hearing officer.

"In retrospect, it was an error in judgment to use two detainees for this particular assignment. Yet, at the time, the director of juvenile hall made the decision in good faith," the report said.

[illegible], managing attorney of the juvenile division of the public defender's office, called that portion of the report "a colossal [illegible] ... There's no reprimands, no [illegible] measures, nothing except people saying you shouldn't have done it," he said.

San Francisco Chronicle July 11, 1986

'Miscommunication' Blamed in Juvenile Hall Suicide

By Bill Wallace

A teenage inmate who killed himself in San Francisco's juvenile hall was not identified as suicidal apparently because of "miscommunication" among staff members, Mayor Dianne Feinstein reported yesterday.

The boy, a 17-year-old referred to in the mayor's report on the incident as "Robert B.," hanged himself at San Francisco's Youth Guidance Center on February 14. At the time, he had been locked in his room for more than 24 hours as punishment for causing a disturbance.

Five days after Robert's death, staff members directed two young juvenile hall inmates to clean up the mess from the suicide in the dead youth's sealed room.

Supervisors Doris Ward and Willie Kennedy asked the mayor's office to look into the suicide soon after it occurred. A subcommittee of the city's Juvenile Justice Commission is also investigating the incident.

The mayor's seven-page report indicated that there was a difference of opinion among workers from several agencies about the boy's mental health before the suicide.

Juvenile hall staff members said that Robert showed none of the symptoms of suicidal depression and noted nothing unusual about his behavior before his death, according to the report.

A social worker from the public defender's office who evaluated Robert in January said she felt he was suicidal and told a social worker from the psychiatric clinic. However, the psychiatric clinic social worker said she did not recall being told the boy had suicidal tendencies.

A short time later, a juvenile hall psychiatrist attempted to evaluate the boy as a matter of routine, but did not find the boy in his room. On a second visit, the psychiatrist asked juvenile hall staff members how Robert was doing, but did not contact him directly.

"One of the problems uncovered during the course of the investigation concerned a breakdown in communication among employees of the (juvenile hall) psych clinic, and between juvenile hall staff and psych clinic staff," said the report, which was prepared by Steve LaPlante, a special investigator for Feinstein's Criminal Justice Council.

"In addition, there was clearly a miscommunication between the public defender's social worker and the psych clinic social worker."

Margaret Brodkin, the executive director of Coleman Youth Advocates, an organization that works with wards of the juvenile court and their parents, said she found the mayor's report disappointing.

Noting that the boy who killed himself had been in isolation for more than 24 hours, she said, "Who recommended this type of discipline? Who reviewed it? What is the Youth Guidance Center's policy on these types of cases? These are the kinds of questions that should be addressed."

"It's disappointing," she said. "I hope the report of the Juvenile Justice Commission isn't as disappointing."

The report recommended no changes in juvenile hall policies or procedures, and said the facility's administration has already introduced several reforms, including:

- The use of written forms in referring inmates for psychiatric evaluations. In the past, such referrals have been made on an informal basis.

- Placing one person in charge of juvenile hall's medical and psychiatric units in an effort to heal rifts between staffers from the two units.

- Instituting regular weekly meetings by the facility's top medical, counseling and school officials to improve communication.

Report stirs optimism at troubled youth center

By Beth Hughes
OF THE EXAMINER STAFF

After more than 25 years of problems, San Francisco's Youth Guidance Center may be moving toward a comprehensive overhaul that will improve the quality of care received by the problem children it is responsible for.

The state has made $3 million available for renovation at the Woodside Avenue center. The City is studying juvenile justice programs throughout the country and culling the best features, said Dennis Sweeney, chief probation officer at the center.

Similar studies have been made before, but the latest report, prepared by the Juvenile Justice Commission following the death in February of a 17-year-old boy who hanged himself in his cell, has generated a new, guarded optimism among professionals who deal with difficult youth.

The commission report examined the situation surrounding the suicide and investigated what it found to be deplorable conditions at the center. The commission yesterday presented the critical report for public comment to about 80 people gathered at the Youth Guidance Center Chapel.

"I'm kind of excited," said Margaret Brodkin of Coleman Advocates for Children and Youth. "The report is a total condemnation of the Youth Guidance Center. It certainly indicates their willingness to be independent, not just a rubber stamp for the Superior Court and the administration of the Probation Department."

The suicide "will be a part of the history of the institution," said Judge Daniel Weinstein. "But hopefully two or three years from now, we'll be able to say we've assuaged his death."

Weinstein said that while the youth center was "part of a continuum of service to children in this country that stinks . . . I can tell you that things are a little bit better."

Living conditions at the center have improved, according to the report. Daily outside recreation for detained youths has been instituted, and unused, outdoor tennis courts have been modified into basketball courts. The telephone system, mail procedures and visiting hours have been changed to ensure communication with the outside.

The report concluded that among the most serious problems at the center were:

- The lack of philosophy and purpose that results in a lack of meaningful and effective communication.
- The inadequacy of policies and procedures.
- The failure to follow policies and procedures as spelled out in the Youth Guidance Center manual, "which is itself cumbersome and confusing."

Justice Department Assails S.F. Juvenile Hall

By Dave Farrell
and Bill Wallace

San Francisco's trouble-plagued juvenile hall exposes its young wards to "egregious conditions" that violate their civil rights according to a U.S. Justice Department memo to Mayor Dianne Feinstein.

The memo, received in City Hall on Friday, states that "unconstitutional conditions of confinement" have existed at the city's Youth Guidance Center since at least August 1984.

"Remedial measures must be taken to ensure that juveniles are not deprived of rights" or the Justice Department might take legal action against the city, the memo said.

The federal investigation was the latest in a series of critical reports undertaken this year in response to citizen complaints about the decrepit detention center at 375 Woodside Avenue.

Feinstein said yesterday that she has been assured by her staff and juvenile hall officials that the problems cited in the Justice Department letter are being corrected.

"At this point, I'm told that substantial improvements have been made, and that the letter is much ado about nothing," the mayor said. "What I need to do now is make doubly sure."

According to the Justice De-

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U.S. ASSAILS JUVENILE HALL

From Page 1

partment letter, juvenile hall officials:

■ Violate inmates' rights by arbitrarily confining them to their cell-like "cottages" for minor disciplinary problems.

■ Deny their young charges the use of restroom facilities, forcing them "to urinate and defecate on themselves or in their rooms."

■ Arbitrarily deny inmates the right to use telephones, and punish youngsters for complaining about juvenile hall conditions by intercepting their mail and withholding their phone privileges.

According to the memo, officials use facilities called "cold rooms" to restrict some youngsters who create disciplinary problems. The memo suggests that isolating juvenile hall residents in their rooms as punishment "constitutes punishment of juveniles not convicted of any crime."

"Moreover, these periods of isolation are insufficiently monitored and therefore pose a particular risk to suicidal youth," the document said.

Some of the comments in the Justice Department memo echo the findings of an investigation by the city's Juvenile Justice Commission earlier this year.

The commission issued a scathing report in July after investigating the suicide of a 17-year-old juvenile hall inmate who had been isolated in his cell for creating a minor disturbance. Commissioners concluded that actions by juvenile hall officials were at least partly responsible for the teenager's death.

"It's amazing how parallel the two reports are," said Margaret Brodkin, the executive director of Coleman Advocates for Youth and Children, an organization that works with troubled children and their parents.

However, Supervisor Willie B. Kennedy contrasted the Justice Department memo with an earlier report on the suicide prepared by members of Feinstein's staff.

"The human side of things was left out of the mayor's report," she said. "She deals with rules and procedures. The (federal) investigation talks about what happens to the kids."

Some city officials said the Youth Guidance Center staff already has begun to work on the problems cited in the Justice Department investigation. However, others warned that reform of the institution is far from complete.

"I think there have been certain improvements made, but you can't change ingrained ways of doing things overnight," said Joe Spaeth, a deputy public defender assigned to juvenile court.

"I remember complaining to (former Juvenile Hall Director Robert) Foote about them using 'cold rooms' for isolation earlier this year," Spaeth said.

Chief Juvenile Probation Officer Dennis Sweeney said the 'cold rooms' issue is overblown.

"It's not like they are dungeons we are locking people up in," he said. "They are just rooms, but they are made of concrete or cinder block and don't have plasterboard walls. They have central heating, but you can blow a lot of hot air through them without warming them up much."

Sweeney said juvenile hall officials are planning to insulate or heat the rooms.

Feinstein's aides pointed out an array of changes made since the Justice Department probe, including the appointment of a new presiding juvenile court judge, a new chief juvenile probation officer and a new director of juvenile hall.

The memo also notes that restrictions on opening inmate mail have been changed and new security personnel have been hired to improve access to juvenile hall toilet facilities.

Although Reynolds' letter suggested that the Justice Department would get a consent decree to force improvements at the Youth Guidance Center, he called Feinstein late yesterday to assure her that the Justice Department would take no action until it evaluates the city's progress.

"We're not going to come sweeping down on you," he told the mayor.

San Francisco
Chronicle

September 3, 1986

San Francisco Examiner / Friday, September 5, 1986 / SECTION B ★R

It's jail for teens in trouble

Tour of Juvenile Hall unveils bleak house

By Harry Jupiter
OF THE EXAMINER STAFF

Except for the rows of barbed wire atop the walls surrounding the tennis court, there wasn't much to jar the sensibilities.

The Juvenile Hall is part of the Youth Guidance Center on San Francisco's Twin Peaks. It is a jail, no matter what the bureaucrats call it.

It is classic institutional blah, everything the political mind can devise except feeling.

Thousands of people drive past the hall every day, most of them without a shred of an idea about what goes on within the bland green walls.

Dennis Sweeney, 45, chief probation officer of the city's Juvenile Court, conducted a press tour yesterday to show what Juvenile Hall is really like. It's a place to keep your kid out of.

Juvenile Hall has been under fire for some time and the heat accelerated in February when a [illegible]-year-old committed suicide by hanging himself in his cell.

Now the federal government has gotten into the act. The U.S. Department of Justice, in a scathing memo by an assistant attorney general for civil rights, said conditions at Juvenile Hall "rise to the level of unconstitutional punishment of incarcerated juveniles."

"We recognized we have a long way to go before we become leaders in the field," Sweeney said yesterday.

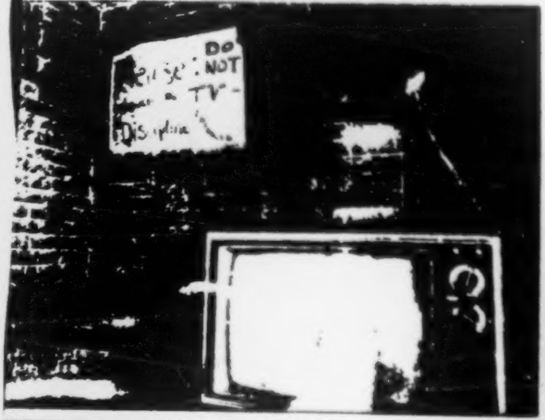
The [illegible] had been scrubbed and [illegible]. The place was clean. There were no sounds yesterday to suggest [illegible].

There were [illegible] young people in residence: 72 boys and 30 girls classified as delinquent and 14

— See YOUTH, B [illegible]

Examiner/Gordon Stone

Juvenile Hall 'dry cell' means no toilet for a young offender but there is plenty of monotony



Examiner photos by [illegible]

Hand-lettered sign above TV set warns away users. Left, Juvenile Hall director Don Carlson confers with Chief Probation Officer Dennis Sweeney, while a probation officer, above, counsels a young detainee.

YOUTH

— From B-1

[illegible] kids who [illegible] until the courts can decide what to do with them.

[illegible] in the place. None are older than 17. The kids are officially called "detainees," but Sweeney tended to call them "young persons."

On the average, he said, a person is kept here 11 days. About 60 percent leave within 72 hours. But the three persons so far homicide will probably be in our custody in excess of six months."

The grimness of the place emerges from what isn't said out loud.

The hand-lettered sign next to a television set that reads "Please Do Not Touch This TV. Discipline Enforced."

The look of "the cold room," where troublesome types are sent to cool off.

It's 11 by 7 feet, contains only a cot and blanket; the walls are concrete — "basically indestructible," Sweeney said.

It was cool in "the cold room," undeniably but not especially cold. Neither Sweeney nor Jim Sutro, the facility engineer, knew the temperature in the room. They wouldn't even guess.

Hours later, Donald N. Carlson, director of Juvenile Hall, had the place checked and said the temperature in "the cold room" was 67 degrees.

"It's like a corner room in a house anywhere," said Sutro. But he acknowledged there was a slight difference.

"You're dealing with people who have a tendency to kick in walls," he said. "But it's harder to kick in concrete than it is stucco."

Ninety-six people are employed at Juvenile Hall, which has an annual budget of $12.7 million but needed special help from the mayor to find the funds to erect partitions between toilet seats.

The combination of heavy hitters and youngsters in transit between foster homes and no homes makes Juvenile Hall a tough place to analyze accurately.

Superior Court Judge Daniel Weinstein, who has been the Juvenile Court judge for a year, talks of the inmates as "children."

"Many of them," he said, "are just troubled, disturbed kids."

But the 18 young people in B-5, the maximum-security section of Juvenile Hall, earned their way in.

"Murder, rape, child molesting, one attempted murder," said G. Rocky Perry, when he was asked what kinds of charges were lodged against the kids in B-5.

Perry, 30, is one of the counselors in B-5. He has been there five years, after a year in the Canadian Football League and three seasons of semiprofessional football in Sacramento. He stands 6 feet, weighs 280 and was an offensive lineman.

He knows the difference between holding and unnecessary roughness.

A-16 Sunday, September 7, 1986 ★★★

San Francisco Examiner

Disgrace in handling juveniles

THE CITY'S AGING and inadequate Youth Guidance Center is the subject of a scathing memo from the U.S. Justice Department, which labels the decrepit facility as all but unfit for habitation. Indeed, William Bradford Reynolds, assistant attorney general for civil rights and the author of the memo, wrote that conditions "rise to the level of unconstitutional punishment of the unconvicted juveniles at the San Francisco Center."

Among the findings of the department's investigation, which took place last summer, were that juvenile offenders have been held in a moldy, underheated concrete room; that the youngsters' rooms have no toilets and there has been a shortage of counselors to accompany youths to the communal toilets; that mail is regularly censored and juveniles are refused the right to call home.

That conditions at the Woodside Avenue facility are objectionable comes as no surprise to city officials: Mayor Feinstein's task force condemned the detention center in 1984. The mayor — who called the memo's conclusions "the product of an investigation done one year ago, and one year late" — noted that The City already has instituted changes to deal with some of the problems.

The reforms, carried out under the auspices of the Superior Court, include the hiring of more counselors, ending the censorship of mail and permitting youngsters to make one call home per week. Moreover, The City has commissioned a study to determine if the juvenile hall can be renovated or should be entirely rebuilt.

The Legislature has set aside $3 million for a renovation of San Francisco's juvenile justice program and hall. Much more will be needed ($23 million, according to one estimate) if The City decides that the facility must be rebuilt from the ground up. A bond issue may be required in that case, and we hope that San Franciscans would support it.

Detainees at the hall are still at an impressionable age (ranging from 11 to 17), and a positive experience with the justice system could help in their rehabilitation, A new and well-maintained juvenile hall could make that sort of experience more common. Even if it turns around only a handful of youngsters, it will have been worth it.

State, City Launch Inquiries

S.F. Foster Kids' Deaths Probed

By Susan Sward

State authorities are investigating at least five cases of children who died in the last two years while under the supervision of the San Francisco Department of Social Services, The Chronicle learned yesterday.

The cases include the June 13 death in Oakland of a 14-month-old boy, Nathan Moncrieff, who police said was beaten to death by an Oakland man and his transvestite lover.

John Hagerty, deputy director of community care licensing for the state Department of Social Services, confirmed yesterday that he has three inspectors looking at "five to eight cases . . . to see if there is anything to be concerned about."

The probe was triggered by the death of the Moncrieff child, who was born in San Francisco and whose case was being supervised by the city Social Services Department.

In a related development, Mayor Dianne Feinstein named a commission to investigate all deaths of children in foster care under the supervision of the city department in the last two years.

"Both the placement and the resulting traumatic death of the Moncrieff baby are sufficient to look carefully and deeply at any and all deaths in foster care and to review all placement practices for appropriateness," the mayor said.

Feinstein said she decided to create the commission in part because she learned Wednesday from state officials that they are "investigating a series of deaths."

"So I resolved to look at every death of difficult-to-place children

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New Probes of S.F. Foster Kids' Deaths

From Page 1

in the foster care system in the last two years — the same period the state is looking at."

She asked the commission, which apparently will look into the same cases the state is investigating, to report back in three weeks.

The city commission will be chaired by retired Superior Court Judge Francis Mayer. Among the other members is San Francisco Coroner Boyd Stephens. No one from the social services staff is on the commission, but the mayor stressed that the investigation would not be "a witch hunt or indictment of anyone."

The mayor said Stephens told her he had already looked into the deaths of four foster care children within the city and "signed off on them," having found nothing improper.

State officials said they have not yet determined whether the death rate found in San Francisco — where 1400 children are supervised in foster care annually — is unusual among California counties.

The mayor acted after receiving a report from the city attorney's office about the death of the Moncrieff child, who was born in San Francisco to a drug-addicted mother and handed over to the city social services department. The boy died while the couple charged with his murder, Gregory Thomas Rogers, 29, a transvestite, and Alvin Woodard, 34, were in the process of adopting him.

The agency that placed the child with Rogers and Woodard is the Black Adoption Placement and Research Center of Oakland. The state has temporarily suspended the center's license while it is under investigation.

At a press conference yesterday, black social workers and representatives of black community groups in Oakland condemned the state for closing the agency, saying it "smacks of racism."

"There have been deaths with children in other agencies, but no such action has been taken against them," said Carole Watson, the president of the Bay Area Association of Black Social Workers.

"Overreacting (to the Moncrieff case) and doing hysterical types of things like closing down the Black Adoption Placement and Research Center is not the correct way to handle this."

Lillian Johnson, director of the family and children's services division of the city's Social Services Department said she welcomes the commission's review "because I feel strongly this division is one of the best of the state, and I am proud of the quality of care given to our kids.

"In the years since 1981, our foster care population has averaged between 1100 and 1400," Johnson said. "The pressure on the community to come up with the proper kinds of care has been tremendous — particularly when San Francisco is not a family community.

"We're not suburbia. We are a singles city, a rich city or a poor city, with only a small nucleus of family-type homes who are able to provide foster care," Johnson said.

In addition to Moncrieff, Johnson said four other children have died from "inconclusive" causes while under city social services supervision since 1981.

Except in the Moncrieff case, Johnson said, "to our knowledge, there have been no allegations of criminal negligence" in any of those cases, which were investigated, as required by law, by local police and coroner's deputies.

Johnson identified the following cases:

■ In November 1981, a 3-month-old girl died at a foster home in San Mateo. She had been placed in the home by the department.

■ In March 1985, a 2-year-old girl died in Oakland because of injuries believed to have been inflicted by other children housed in the same foster home, which was under the department's supervision.

■ In July 1985, a 2½-year-old boy died in his parents' San Francisco home. Johnson said the child was under department supervision because of past parental abuse or neglect.

■ In July 1985, a 2½-year-old girl died in a bathtub at her adoptive parents' home in San Francisco. The biological parents had placed the child there through a private adoption, and the city was involved because it was paying a support payment for the child, Johnson said.

In addition to the four cases, Johnson said, three other children under city social workers' supervision died since 1981 because of medical causes.

San Francisco Examiner

Child's death sparks probes of foster care

**By Marilee Enge
and Lon Daniels**
OF THE EXAMINER STAFF

The death of a 14-month-old San Francisco child while in the custody of foster parents in Oakland has led to two investigations into how San Francisco places foster children.

State Social Services Department officials said yesterday they were reviewing San Francisco's role in the Nathan Moncrieff case.

The infant was placed in the care of two men who posed as a couple. One of the men was a transvestite. The infant allegedly was beaten to death while the Oakland men were in the process of adopting him.

Also yesterday, Mayor Feinstein announced formation of a "blue-ribbon" panel charged with looking into the placement of the boy and seven other children who died in foster homes in the past two years.

San Francisco's Social Services Department is under investigation

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ADOPT

—From A-1

because it was the supervising agency in the adoption of the baby the couple is accused of killing. The Black Adoption Placement Research Center, a private Oakland agency, placed the child with the couple.

John Haggerty, deputy director of community-care licensing for the state Social Services Department, said yesterday the state was looking at the files on the Nathan Moncrieff case to "see if there's anything we can learn, anything that could have been avoided, or if procedures need to be modified."

He said the department decided to investigate after suspending the license of the Black Adoption Center for its role in the adoption.

As the department probed deeper, "it was brought to our attention that San Francisco was involved in the placement," Haggerty said.

Nathan Moncrieff was born in San Francisco to a heroin addict and had brain damage at birth. He had been under the supervision of the San Francisco agency since June 1985.

The private Oakland agency certified the home of Greg Rogers, a transvestite, and Alvin Woodard for foster care. They took custody in April.

In a written release announcing her commission, Feinstein said yesterday: "The recent death of little Nathan Moncrieff is of enormous concern to me. It is important and most urgent that we examine the total system now in operation to forestall any such possibility in the future."

The panel is headed by retired Superior Court Judge Francis J. Meyer and includes Dr. Boyd Stephens, San Francisco's coroner; Dr. Michael Lenoir, a pediatrician and associate professor at UC-San Francisco; and Kathy Baxter Stern, director of the San Francisco Child Abuse Council.

Edwin Sarsfield, general manager of the city Department of Social Services, said San Francisco social workers visited the home of Rogers and Woodard and determined that everything was satisfactory.

He said they did not know Rogers was a man until two days before the child's death.

Meanwhile, a coalition of groups and adoptive parents came to the defense of the Black Adoption Center yesterday. At a news conference, some accused the state of racism in closing the center.

"If this agency did not begin with the word 'black' or had some other kind of address, would the result have been the same?" asked the Rev. Gillette James, pastor of Beth Eden Baptist Church.

Kathleen Norris, a spokeswoman for the state Social Services Department denied the charges. "The action was taken because they were notified in advance by the department not to certify the home in question, and they disregarded that notification."

June 25, 1986

2 Plead Not Guilty to Slaying Baby

By Pearl Stewart
and Clarence Johnson

An Oakland man and his transvestite lover pleaded not guilty yesterday to charges of murdering the 14-month-old foster child they were in the process of adopting.

Alvin Woodard, 24, and Gregory Thomas Rogers, 29, remained in custody without bail pending a preliminary hearing in Oakland Municipal Court.

"There's more to this case than what police and other agencies are saying," Michael Bailey, Rogers' attorney, said after the hearing. "Everyone I have talked to knew Jean Woodard (the alias used by Rogers) was a man."

Bailey said he believes adoption agency workers "had a tacit understanding" of Rogers' sexuality at the time of the placement.

He also accused the agencies of "placing a child with medical problems in a home without giving instructions for his care."

Nathan Moncrieff, who was buried in Lafayette yesterday, was born with an underdeveloped skull and underwent surgery when he was 3 months old.

Officials at both agencies involved in the case, Oakland's Black Adoption Placement Research Center and the San Francisco Department of Social Services, have said they were fooled into believing that the couple were a man and a woman.

The Black Adoption Placement Research Center, a private, state-licensed agency that certified the Woodard home, said again yesterday that they followed state regulations in accepting the men as foster parents.

Investigators with the state Social Services Department and the San Francisco city attorney's office are looking into the case.

Deputy city attorney Craig McCabe yesterday said investigators in his office were looking into unconfirmed reports that one or both of the men had previous felony convictions which they did not reveal to the adoption agencies.

The Chronicle previously reported Rogers was being sought on a $2000 warrant for misdemeanor weapons charges in Contra Costa County at the time the boy was placed in his home.

Officials at the Oakland agency refused to comment on the men's criminal history. State regulations prohibit the placement of foster children with people who have criminal records.

A preliminary hearing date for Rogers and Woodard will be set July 1.

Bailey said statements from the two men to police were "taken under stressful conditions."

Part of his defense will focus on "the mental state of the two defendants and what bearing Woodard's emotional problems may have had on Rogers," Bailey said.

Woodard suffered from a bullet wound to his head and serious emotional problems, according to adoption agency records.

Abortion Protesters Freed in Cincinnati

Cincinnati

Common Pleas Judge Thomas Crush released five anti-abortion protesters yesterday after they spent the night in jail for taking part in a rally where demonstrators defied his order to limit pickets outside an abortion clinic.

Associated Press

June 28, 1986

Agency Shut Over Death of Adopted Baby

By Pearl Stewart

The state Department of Social Services yesterday shut the Oakland adoption agency that placed a baby in the home of two men who are accused of murdering him.

State officials halted operations of the Black Adoption Placement and Research Center and also began the process of revoking the license of the agency on charges it violated state regulations when it approved the home of a transvestite and his male lover for the placement of an infant boy.

"They're closed down immediately," deputy social services direc-

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ADOPTION AGENCY SHUT

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tor John Hagerty said in an interview. "Everything stops."

Hagerty said it was the first time the state has taken such action against an adoption agency.

The state agency, in a written statement, also announced that it is investigating the role of the San Francisco Department of Social Services in allowing the boy, who was born in San Francisco, to be placed in the men's home.

The pair, Gregory Thomas Rogers, 29, and Alvin Woodard, 24, are charged with beating 14-month-old Nathan Moncrieff to death.

Linda S. McMahon, director of the state Department of Social Services, said the Black Adoption Placement and Research Center did not obtain fingerprint clearance of the couple, and did not act when notified by the state that the men were ineligible because of criminal activity by one of them.

State officials also said the Black Adoption Center disregarded state regulations when its placed the child with the men.

The state agency also said it is "reviewing all other cases in which the Black Adoption Placement and Research Center was involved."

"There are indications that there may be other problems."

Jane Bond Moore, attorney for the Oakland agency, said, "We expect the license to be returned and we feel that the intervention of the state in this matter was inappropriate and could cause suffering to a lot of people."

The state officials said counties that have made placements through the Black Adoption Center will be asked to review the cases on an individual basis to determine whether the homes are suitable.

The Oakland adoption center, a private nonprofit agency that is underwritten by foundation grants, has found homes for 34 children in its three years of operation. It specializes in the placement of black children in need of foster homes while they are awaiting adoption.

Rogers and Woodard were in the process of adopting Nathan Moncrieff when the child died on June 13 of injuries allegedly inflicted during beatings.

They had been given custody of the boy for foster care in April.

Rose Randolph, acting director of the San Francisco Department of Social Services, said her agency "welcomes anything the state can do to help."

"We are conducting out own investigation and hope to have a cooperative effort with them."

Representatives of the Oakland center have said that Woodard and Rogers masqueraded as husband and wife and produced medical reports, birth certificates and other documents attesting to their identities.

Child Abuse Reported to S.F. Agency 'Every 3 Hours'

By Bill Wallace

The agency under investigation by Mayor Dianne Feinstein's new commission has been overwhelmed with troubled children in recent years, according to an internal report obtained by The Chronicle.

The report examines the Department of Social Services' Family and Children's Services Division, the section that places homeless children and supervises foster care.

According to the report, a child is abused physically or sexually at least every three hours, somewhere in the city.

The report, entitled "Every Three Hours," was prepared by the Family and Children's Division's supervisorial staff. It says that more than 13,000 children — 10 percent of the city's juvenile population — were channeled through the department last year.

One case of child abuse is reported to the department every three hours, according to the report.

"If we look at child abuse as a war, a series of battles, we in San Francisco haven't really had a win in a long time," the document says.

The report states that the agency is losing the war because it is understaffed, underfinanced and overworked.

For example, last year the department received reports of child abuse involving 13,000 San Francisco children, but its Emergency Response Unit, which provides child abuse prevention and investigation services, has only 20 people.

"Children coming before the attention of the department are the worst (child abuse cases) ever," the report says.

"What social workers are seeing are sexually abused 7-year-olds with venereal disease; infants abandoned in garbage cans; children whose beatings have left them permanently scarred, whose very faces often are so disfigured they don't even remotely resemble the pictures their grandparents keep on their mantles."

"Tragedy is the rule, not the exception anymore," the report says.

The jump in child abuse cases has increased the need for adoptive parents and foster care families. Last year the department's adoption unit, which consists of seven staff members and a supervisor, placed 56 children in new homes.

In addition to placement, however, those eight staffers are responsible for recruiting and screening new adoptive parents, counseling parents who are considering putting their children up for adoption, assisting families after they adopt and processing the blizzard of paperwork necessary to accomplish all these things.

"All of these are time-consuming, and lack of staff is causing an increased amount of undone work, especially in the areas of recruitment, home studies and post-adoption information services," the report says.

The department also has major problems providing an adequate supply of foster care for children who must be taken from their birth parents because of abuse, neglect or other family problems.

The department has 1372 children in foster care and institutions at an annual cost of $10 million. The number of available homes in the city is declining, and department personnel are being forced to find foster homes in outlying areas to meet the increasing demand for placements.

Although several attempts have been made during the past year to increase the supply of foster homes, foster parents are hard to find, and children still must wait months for placement.

"We have so bureaucratized the foster caregiver certification process with state and federal red tape that loving, caring families, desperately needed families, have opted out of working with our children," the report says.

San Francisco Juvenile Court Judge Daniel Weinstein also emphasized the growing workload of the agency.

"Over the last two years, we are dealing in this county with a tripling of the number of petitions for placements of abandoned, neglected and abused children," Weinstein said.

He said three major factors have contributed to the sharp rise in placements: much improved reporting of child abuse cases to authorities, improved police work in investigating such cases and a huge increase in the number of children born with drug addictions or fetal alcohol syndrome due to the mother's drug or alcohol abuse. City officials take many of these children away from their parents at birth, he said.

The department "has been struggling hard to develop a base of foster homes to handle the influx of these children. It's a real crisis among this population of children."

San Francisco Chronicle

The Largest Daily Circulation in Northern California

Saturday, July 19, 1986

Foster Children Were Abused, State Claims

By Bill Wallace

Five children placed in homes by an Oakland-based adoption agency were abused by the parents the agency selected, according to a complaint filed by state officials yesterday.

Although the agency received reports about the mistreatment, it failed to notify state officials as required by law, the complaint said.

The complaint was filed against the Black Adoption Placement and Research Center late yesterday by the California Department of Social Services. It asks that the agency's state license be revoked.

Alice Washington, the adoption agency's executive director, could not be reached last night. The center's attorney, Jane Bond Moore, declined to comment.

The state charges the adoption agency with failing to screen its employees for criminal records or make sure they had health certificates.

State investigators began probing the agency last month after Nathan Moncrieff, a 14-month-old handicapped child, died of injuries he received at the hands of his foster parents.

Moncrieff's foster parents, Alvin Woodard and Gregory Rogers, are charged with murdering the child. They told police that they beat the baby with a shoe because he cried too much.

Moncrieff is one of five children the state alleges suffered at the hands of parents selected by the Black Adoption Placement and Research Center.

The complaint said three children were lodged with a foster care family who sexually and physically abused them. Another child was deprived of meals and physically punished by both his foster parents, it said.

The complaint also contains new details about Moncrieff's death.

It says state Department of Social Services officials told the adoption agency that Alvin Woodard's criminal record showed "a lack of rehabilitation, and his appearance and behavior at the licensing office created a negative impression."

The agency "knew of Alvin Woodard's propensity for violent outbursts but failed to record this information (on adoption reports) or take any appropriate action," the complaint said.

When Moncrieff was admitted to emergency care, the Black Adoption Placement and Research Center failed to notify the Department of Social Services as required by state law, the complaint said. It said the adoption agency also failed to notify the state about the child's death.

Adoption Agency Probing Case of Baby Who Was Killed

By Pearl Stewart

Nathan Moncrieff was 14 months old when he was placed in the care of the two men now charged with killing him

A board member of an Oakland adoption agency yesterday defended its "excellent record," but said mistakes may have been made when a baby was placed with two men now charged with his murder.

Alameda County Supervisor John George, a member of the board of directors of the Black Adoption Placement and Research Center, said the center is "conducting our own investigation focusing on how we handled the case, and if mistakes were made."

Gregory Thomas Rogers, a 29-year-old transvestite, and Alvin Woodard, 24, are charged with murdering 14-month-old Nathan Moncrieff. They posed as husband and wife when they applied with the agency for a child. The boy was placed in their home by the San Francisco Social Services Department for foster care, pending approval of the adoption.

"It appears that this couple conducted an elaborate plot to deceive the agency," George said in an interview, adding that the adoption center's staff "had questions" about the men before the baby was placed.

"That seems to be why it took two years to look into their application when it usually only takes about six months," George said.

George also said that the agency confronted the men about allegations from neighbors that "Mrs. Woodard" was a man. But the two presented additional documents attesting to their supposed identities, he said.

"We want to find out if those documents were checked out by the agency," George said. He said investigators also are looking into whether a doctor who examined the two men was contacted and why the men's past brushes with the law did not bar them from becoming foster parents.

"Whatever we find out, even if mistakes were made, we can face the music and rebound. This is a very strong agency," George said.

The entire board of directors wants to "eliminate speculation that there was a coverup" by the agency, he said.

The public defender's office issued subpoenas for the adoption agency's files on the case yesterday in preparation for Rogers' defense, an investigator said.

Social services sources in Oakland said the Black Adoption Center was founded four years ago in the aftermath of a controversial adoption of a young black boy by a single white man purported to be a homosexual.

The center's purpose is to find black families interested in adopting black children "to perpetuate the heritage of black people," George said.

He said that in its other 23 placements the center has "provided an excellent service for black children."

The group selected by the center's board of directors to conduct the inquiry includes officials of the Bay Area United Way, the Black United Fund and a former member of the Alameda County district attorney's staff.

The San Francisco city attorney's office presented an interim report on the case to the Social Services Commission yesterday, but the findings were not made public because of "possible litigation," according to Deputy City Attorney Craig McCabe.

Results of a state investigation of the matter are expected early next week.

San Francisco Chronicle
The Largest Daily Circulation in Northern California
★★★★★ MONDAY, JULY 21, 1986 777-1111

Special Report

State's System For Adoptions Breaking Down

By Bill Wallace and Allyn Stone

A black market adoption ring that is selling babies is broken up in San Ysidro.

A couple in San Mateo faces loss of custody of a year-old girl they have cared for since she was born.

A San Francisco anti-abortion group persuades a pregnant teenager to have her baby secretly, saying a local couple will pay her medical expenses if she lets them adopt her child.

Each of these occurrences offers a glimpse into California's troubled adoption system. Their common denominators are hardship for the children and heartache for both the children's natural parents and would-be adoptive parents.

Nationwide, the number of parents wanting to adopt babies is as much as 100 times greater than the number of available children, according to some estimates, largely because many women have delayed bearing children to have careers and because more couples are reporting infertility problems.

As a result, adoption systems in California and other states are showing signs of strain — and a two-tiered adoption market has emerged. Although there is an increasing demand for infants who are healthy and white, experts say, there is an increasing supply of children who belong to minority groups, are older or suffer from health and learning disabilities.

"A growing number of kids are not able to find adoptive homes," said Jim Brown, state director of adoption services. "The inventory, if you will, is increasing."

"It really comes down to this," agreed Margaret Brodkin, the director of Coleman Advocates for Youth and Children, a San Francisco child welfare organization. "There are lots of children out there that need parents, but they just aren't being adopted."

Interviews with dozens of experts in the field and a review of court records and reports by local, state and federal agencies reveal that the system is plagued by a variety of problems that are easy to identify but difficult to solve:

- Public and private adoption services are increasingly overwhelmed with too many children who are considered difficult to place because of age, race, health or psychological problems.

- Minority children are particularly hard to place because social workers, wanting to protect the children's ethnic heritage, are re-

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Why System For Placing Kids Isn't Working

[illegible] Page 1

[illegible] to match them with families of [illegible].

● [illegible] child welfare agencies [illegible] the [illegible] would be [illegible].

● Delays in finding adoptive families [illegible] children to [illegible] months [illegible].

● [illegible] would be [illegible] "baby [illegible]" [illegible] black market.

The human cost of the system's flaws has been highlighted in recent weeks by the [illegible] of Nathan [illegible], a [illegible] who last month died of injuries he suffered after allegedly being beaten by the foster care couple that intended to adopt him.

The case of a black infant [illegible] was born with [illegible] and required surgery [illegible] a year for the Black Adoption Placement and Research Center in Oakland to find people willing to adopt him.

They turned out to be a [illegible] couple.

The couple produced glowing testimonials from friends, associates and church elders. The agencies who arranged the placement apparently ignored adverse information about the would-be parents.

[illegible] Delays

There are two principal types of adoption allowed in California. Fifty-five public and private adoption agencies in the state are licensed and regulated by the state's Department of Social Services. In addition, there are dozens of attorneys who specialize in arranging adoptions privately. [illegible] of the special [illegible] involved in agency placements.

A third type of placement is the intercountry adoption, in which a foreign-born child is adopted by a U.S. couple. According to a study by the National Committee for Adoption, intercountry placements have doubled in the past decade, but they are a fraction of all adoptions.

In agency adoptions, the birth parents relinquish their right to the child before the [illegible] and the agency is responsible for finding the child a new home.

Privately arranged adoptions are called independent placements, in which the birth parents [illegible] the child directly over to them when born.

Agency adoptions generally are slower. [illegible] an agency placement usually takes three to six months longer than the average of six months needed to complete an independent placement, according to state officials. In practice, many adoptions often take much longer.

Part of the reason for the delay is the [illegible] caseloads carried by public adoption workers. For example, staffing shortages at San Francisco's Department of Social Services caused a 45 percent decline in the number of adoptions the department completed last year, according to an internal [illegible] report.

The slow-down in adoptions is not limited to San Francisco. The California auditor general's office has complained about statewide delays in placing adopted children in three different nodes of the state Department of Social Services since 1983.

"For the adopting parents, these lengthy delays cause anxiety and frustration," said the most recent report, released in 1985. "As a result, some families are discouraged with the adoption process [illegible] have decided not to adopt children through [illegible] public agencies."

Many experts believe that the system is even slower now than it was in 1985.

"How can it not be?" said Margaret [illegible]. "Look at the fiscal cutbacks there. Look at the number of people who have been cut from staff."

> *'There are lots of children out there . . . but they just aren't being adopted'*

In 1985-86, the governor budgeted $31.[illegible] for state adoption services, a decrease of nearly a quarter-million dollars from the previous fiscal year. At the same time, 73 positions were eliminated from the state Department of Social Services budget under a program designed to give more responsibility to the counties, which have suffered their own budgetary problems.

Meanwhile the adoption caseload continues to grow. As of June, [illegible] of the kids in foster care were waiting for adoption — more than twice the number placed by public agencies last year.

"The program is funded at about the same level every year," said Michael Genest, a program analyst for the Legislative Budget Office. "If the caseloads are increasing, the placements are simply not getting done."

Babies for Sale

Another cause of long waits in agency adoptions is the small number of white babies that public adoption agencies have available.

"The delays really occur with adopting the white child," said one attorney who specializes in adoption law and requested anonymity. "If you walk into a public agency and say you want a healthy white baby, there's no question at all you are going to go on a long waiting list. If you've got the money, you go the independent route. If you don't, you use the agencies."

Families that give up on agency adoptions because of [illegible] or an inability to find a child they want may decide to adopt independently, usually with help from a lawyer.

In an independent placement, the adoptive parents sometimes are present when the child is born. The biological mother frequently maintains some contact with the child and adoptive family after the placement, even if only through holiday greeting cards or occasional letters.

The adoptive parents usually pay for the services of the lawyer who arranges the adoption. Under state law, such payments are perfectly legal, as are payments for the birth mother's medical costs and similar expenses. However, "baby selling" — direct payments for an adoption — is illegal.

The faster pace of independent adoptions has made them increasingly popular. According to state officials, [illegible] children were adopted independently last year in the same Bay Area counties, while only [illegible] children were placed through public agencies.

Although faster, independent adoptions have their own problems.

For example, when a couple from Kent, Wash. decided last year that they wanted a child, they contacted an attorney who claimed he could arrange the legal adoption of a Mexican infant.

Unknown to them, the lawyer was working with two San Ysidro women, Juanita Vargas [illegible] and her daughter, [illegible] Leyva Vargas, who were acting as "baby brokers," smuggling undocumented infants through a halfway house in Tijuana.

Immigration and Naturalization Service agents who investigated the scheme said the women shipped seven newborns into the United States, charging from [illegible] to [illegible] a child. During the probe, the agents found evidence that other smuggling operators had "sold" at least 21 more Mexican babies to families in California, Washington, Oregon, Illinois and New York.

Bidding and Adoption [illegible]

Other abuses include bidding, in which the person who arranges the independent adoption jacks up the cost by saying, for example, that the birth mother's medical bills were higher than they were supposed to be, or that another couple has offered more money for the same child.

"It goes on all the time," said William Pierce, president of the National Committee for Adoption, a trade association representing 135 adoption agencies. "If you've got a product and a lot of people want it, the price will go as high as the market will bear."

Another problem is that people arranging independent adoptions may take liberties with the law that a licensed agency will not. Last fall, for example, officials of a San Francisco anti-abortion group talked a 14-year-old girl into having her baby and putting it up for adoption without her parents' knowledge.

According to police reports, the counselor arranged for the girl to live with a Santa Cruz couple while she gave birth. The group later used an "overseas study scholarship" to cover her absence from school, and arranged for a local doctor to adopt her baby. The counselor has since been sued by the girl and the San Francisco district attorney's office, and is under investigation by the state Department of Social Services.

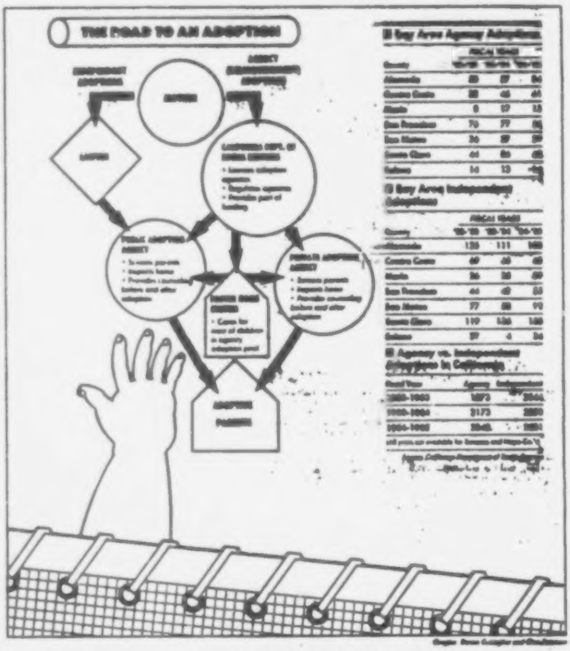
Critics hold up such cases as examples of why independent adoptions should not be allowed. Eleven states allow adoptions only through licensed agencies.

"The biggest single reason private adoption is flourishing is that agencies, which are monitored by the state and are vulnerable to lawsuits, basically follow the law," Pierce said. "The person [illegible] in an adoption [illegible] out of business the [illegible] licensed practitioners."

In most cases, independently arranged adoptions are routine and successful.

"Most of the attorneys who specialize in these kinds of placements are reputable and well-respected in the profession, and the majority of cases they handle are completely unremarkable," said [illegible], chairman of the Bar Association's Committee on Adoptions.

Regardless of their relative merits and demerits, both agency and independent adoptions place children in permanent homes. The alternative is a prolonged stay in the state's foster care system, a system beset with its own crippling problems.


THE ROAD TO AN ADOPTION
INDEPENDENT ADOPTION
AGENCY (RELINQUISHMENT) ADOPTION
MOTHER
LAWYER
CALIFORNIA DEPT. OF SOCIAL SERVICES
• Licenses adoption agencies
• Regulates agencies
• Provides part of funding
PUBLIC ADOPTION AGENCY
• Screens parents
• Inspects home
• Provides counseling before and after adoption
PRIVATE ADOPTION AGENCY
• Screens parents
• Inspects home
• Provides counseling before and after adoption
FOSTER HOME [illegible]
• Cares for [illegible] of children in agency adoption pool
ADOPTIVE PARENTS

Bay Area Agency Adoptions

County	'82-'83	'83-'84	'84-'85
Alameda	89	87	84
Contra Costa	38	46	61
Marin	8	17	13
San Francisco	70	77	[illegible]
San Mateo	36	39	39
Santa Clara	44	86	65
Solano	14	13	[illegible]

Bay Area Independent Adoptions

County	'82-'83	'83-'84	'84-'85
Alameda	125	111	160
Contra Costa	69	46	65
Marin	26	38	50
San Francisco	44	42	53
San Mateo	77	88	93
Santa Clara	119	136	160
Solano	37	4	34

Agency vs. Independent Adoptions in California

Fiscal Year	Agency	Independent
1982-1983	1873	2044
1983-1984	2173	2850
1984-1985	2045	2854

[illegible] not available for Sonoma and Napa Co.

Source: California Department of Social Services

Graphic: [illegible]

Minority Children Who Wait in Vain

By Allyn Stone and Bill Wallace

While affluent couples pay top dollar to become parents of hard-to-find white infants, thousands of minority children such as Nathan Moncrieff wait for someone to claim them.

Nathan, a black 14-month-old boy born to a heroin-addicted mother, lived in a temporary home for 13 months before being placed with a couple who began formal adoption proceedings.

Last month, before the adoption became final, Nathan died, apparently from being beaten. His would-be parents — who turned out to be two jobless men posing as husband and wife — have been charged with murder. Police say the men admitted beating the child because he cried too much.

The tragic case underscored the shortage of homes for certain groups of children and a continuing controversy about the need for ethnic matching in adoptions. It also focused negative attention on a private adoption agency dedicated to matching black children with parents of the same race to preserve the children's ethnic heritage.

Gregory Rogers and Alvin Woodard, the men charged with killing little Nathan, apparently did not level with the Black Adoption Placement and Research Center about many things. Yet the two men, who are both black, did meet the agency's race requirement.

"I think they might've gotten so preoccupied with helping the families that were applying for children that they weren't making sure enough that these were good homes for the children," said Neal Snyder, an attorney with the state Department of Social Services who is now seeking revocation of the Oakland agency's license.

Supporters of the center, which has been closed temporarily by state officials investigating the case, say it does a fine job and provides an important function.

"Forty percent of the children in the Bay Area who are in foster homes are black," said Carole Watson, president of the Bay Area Association of Black Social Workers. "These are difficult children to place. The whole reason the Black Adoption Placement and Research Center was formed was to facilitate getting more black children into adoptive homes."

Officials of Coleman Advocates for Children and Youth, a San Francisco organization that played an important role in establishing the Oakland center, agree.

"These are children who have traditionally been labeled 'unadoptable,'" said Margaret Brodkin, Coleman's director. "The lives of many black children have been incredibly damaged because a specialized adoption agency did not exist."

Such specialized adoption agencies face a difficult task. Because children born in poverty are more likely to end up parentless, minority youngsters are disproportionately represented among children waiting for homes.

Black children, for example, constitute 41 percent of the children up for adoption in the United States, although blacks are only 8 percent of the total population, according to the National Committee for Adoption in Washington.

This trend is particularly pronounced in San Francisco. For the first quarter of 1988, 38.2 percent of the children in the city's foster home system were black; the city's black population was 12.5 percent.

In the 1960s, as the shortage of healthy white infants grew, a significant number of white families adopted minority children. But in 1972, the National Association of Black Social Workers came out with a "vehement stand" against such placements.

"The family is the basic unit of society, one's first, most pervasive and only consistent culturing life experience," the association said in a statement. "Black children in white homes are cut off from the healthy development of themselves as black people."

In 1979, the Interagency Adoption Project of the National Urban League suggested several ways to encourage ethnic matching. Many child welfare agencies now use such techniques.

The California Department of Social Services pays for recruitment ads in broadcast media that serve minority communities. The department also pays an Adoption Assistance Program subsidy to families adopting hard-to-place children.

Advocates of race-matching have their critics. William Pierce, director of the National Committee for Adoption, says that race matching too often delays a child's placement.

"We've got kids who are growing up in foster care and institutions simply on the basis of race," said Pierce. "If children are loved, and it's an appropriate home, that is what matters. Adoption, like love, ought to be color blind."

By [illegible]/THE CHRONICLE

Victor Catanzaro played with his adopted daughter, Kendall, as his wife, Molly, looked; the couple is in a legal battle to keep the baby

When a Mother Changes Her Mind

By [illegible] Stone

Victor and Molly Catanzaro will celebrate their adopted daughter's first birthday on August 1, knowing it may be the last one they share with her.

"She was ours from that afternoon," said Victor Catanzaro, a real estate executive, recalling the day last year that he and his wife took custody of a newborn baby girl. "We will do whatever is necessary to keep her."

The Catanzaros now are locked in a highly emotional custody case with the natural mother of the blond toddler they call Kendall Catanzaro. The mother gave her up for adoption at birth and the Catanzaros took Kendall for their own when she was 2 hours old.

The battle illustrates the pitfalls of "independent adoption," a speedy and relatively simple method used to place a majority of infants adopted in the United States today. The process has brought hope to couples who had given up on finding a healthy Caucasian infant, who are in short supply, through established channels. But it can also cause heartbreak, as the Catanzaros have found.

The couple, married for 11 years, found out three years ago that they could not have children.

TOMORROW

Tomorrow The Chronicle's Special Report on California's troubled adoption and foster care programs will focus on foster care. It will conclude on Wednesday with an examination of some possible solutions.

They sent out more than 1000 "baby wanted" letters in late 1984 to general practitioners and obstetricians all over the country.

The letter that led them to Kendall was the only response they got. Molly Catanzaro said Kendall's mother "did not want to meet us, although we were open to whatever she wanted." They paid her hospital bill, chose a name for the baby and took Kendall home.

That instant gratification was typical of independent adoptions, but can carry a heavy cost if the mother changes her mind before the adoption becomes final, which takes at least six months. Agencies, on the other hand, do not place children until their parents have signed away all claims to them.

This January, the Catanzaros got a letter in which the natural mother said the baby would have a good life with them and that she knew she had done the right thing. She also asked for photographs of Kendall and the couple complied.

In March, the apparently anguished woman contacted the social worker who was reviewing the Catanzaros' qualifications, and said she wanted the baby back. "Her lawyer said those pictures had broken her heart," Mrs. Catanzaro said.

Kendall's natural mother, it turned out, did not sign a final consent to the adoption before she changed her mind. With that in view, a judge in San Mateo County Superior Court last month ordered the Catanzaros to return the child immediately.

The shocked couple handed Kendall to her mother, an unmarried welfare recipient who lives in Bakersfield with her parents and her 3-year-old son. A week later, the Catanzaros regained custody — at least temporarily — when their lawyer persuaded the state Court of Appeal in San Francisco to overturn Smith's order. The court said it would be best not to uproot the child until the dispute is settled.

Kendall's natural mother refused to be interviewed for this story, as did her lawyer.

The Catanzaros said they spent a traumatic week when Kendall was gone, unable to sleep, work or think of anything but their struggle to get her back. When the baby returned from staying with her birth mother, her adoptive parents saw changes.

"She sucks her fingers, and she never did that before," said Victor Catanzaro, 37, as he bounced the sleepy baby on his knee six days after her return. "It took her a couple of days to get to the point where she would laugh again."

"She also puts her hands over her ears quite a lot. She clings to us much more and won't let us out of her sight when other people are around," said 33-year-old Molly Catanzaro.

The couple hope to retain custody by proving that Kendall's 20-year-old mother effectively abandoned the child by leaving her in the care of others. Regardless of the outcome, they believe independent adoption is worth the risk.

"Yes, you're on pins and needles the first six months, but you can't not take the risks," said Molly Catanzaro. "She's been worth every minute. We have had so much love from her."

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THE ADOPTION SYSTEM/SPECIAL REPORT

Trouble With Foster Homes

By Bill Wallace and Allyn Stone

Second of a series

Lynette L., a former foster child, lived through a five-year nightmare of sexual abuse at the hands of her foster father. She was 11 when her ordeal began.

"At that time, I was scared and I didn't really know what was happening, so I went along with him," the girl said. "Most of the time, I would block it out of my mind and just try to forget."

Lynette's case is not unique to children in California's foster care system.

Throughout the state, the program is plagued with horror stories and chronic problems of overcrowding, underfinancing and emotional "burnout" of parents, according to those who work in the system and officials who administer it.

The victims of these problems are the children lodged in the system, which has come under close scrutiny since the death of Nathan Moncrieff, a physically handicapped 14-month-old who was beaten to death while under foster care.

The child's foster parents have been charged with his murder, and the San Francisco city attorney's office, the state Department of Social Services and a blue-ribbon panel appointed by Mayor Dianne

Page 4 Col. 4

Trouble at Foster Homes

From Page 1

Feinstein are investigating the city's administration of foster care.

The foster care system is designed to provide shelter for children who cannot be left with their parents. California has 14,000 foster care operators who are paid with tax dollars. Half the system's cost is borne by the state, the rest comes from the counties.

Most licensed foster parents try to give good care, and most succeed. But screening for foster care candidates is frequently minimal, and sometimes bad foster parents slip through the process. At the same time, many qualified foster-care candidates choose not to become involved in the system because of its low pay and bureaucratic snarls.

The system is inundated with growing numbers of homeless kids. Last year, foster homes in California took in nearly 44,000 children for such reasons as child abuse, court-ordered placements and temporary emergency shelter.

State officials say the number of placements has climbed steadily for several years. Tragically, child abuse in foster homes also is on the rise.

"The rate of abuse of children in foster care is going up and it's going up alarmingly," said Elsa Ten Broeck, San Mateo County's administrator of children's services, in testimony before the California Legislature. "The reality is that children in foster care are there because of neglect. And I sometimes wonder what we do to them when we move them."

Case Studies of Abuse

Painful evidence of problems in foster care is not hard to find.

- Last year, Jennifer C., a child living in a San Francisco foster home, complained that she was being beaten with a stick and locked in a dark basement by her foster parent. She and her natural father complained for six months before the city's Department of Social Services took action on the case, withdrawing the foster home's certification.

> *'The rate of abuse of children in foster care is going up alarmingly'*

- Last month, Robert Rodriguez, a 45-year-old Fremont man, was charged with 21 counts of child abuse involving three children whom Santa Clara County authorities sent to his home for foster care.
- This month, 18-month-old Carlos Salas was allegedly beaten to death while staying in a foster home in Pomona.

The case of Lynette L. demonstrates graphically what can happen when a child is trapped in the foster care system. Her story is detailed in Alameda County Superior Court documents filed during her foster father's prosecution on felony sex charges in 1984.

Alameda County's Department of Social Services in 1979 placed Lynette, her sister, Yvette, and her brother, Jason, in an east Oakland foster home run by Autrice Easley and his wife.

Only a few weeks after Lynette arrived, Easley forced her to have intercourse with him, according to court records. During the next five years, he molested her scores of times.

During a routine interview in early 1984, Lynette described Easley's actions to her therapist.

At first she insisted that the incidents had happened to one of her friends, but finally she acknowledged that she had been the victim.

The therapist reported the abuse to her case worker at Social Services. The department suspended Easley's foster care license and contacted police. In the investigation that followed, officers discovered that Easley had abused Lynette's sister as well.

In a statement to police, Lynette, who had been shifted through a series of temporary foster homes, said Easley pressured her into silence by saying she would be sent away again if she told. She also was concerned about what effect the news would have on her foster mother.

"I began to love Mrs. Easley so much that I was afraid to tell her because I knew it would hurt her," Lynette told police.

Easley pleaded guilty to felony sexual intercourse with a minor, was given five years' probation and ordered to register as a convicted sex offender with county authorities. His foster care license was revoked.

During the five years that the Easleys were foster parents, five children were placed with the family by Alameda County officials. It is not known whether any of the other children was sexually molested.

Fingerprints for Foster Parents

People who apply to be foster parents must meet rudimentary health and safety requirements and must not have a criminal record. They undergo a fingerprint check, attend a series of orientation meetings and agree not to use corporal punishment.

Once a foster home is licensed, it is checked once a year. In addition, children in foster care are to meet at least once a month with a social worker.

Several experts said that even if public agencies had the resources to do more extensive screening, they cannot afford to be too selective because they do not get that many applicants.

"Most counties do virtually nothing for screening except for a fingerprint test," said Richard Barth, a professor of social work at the University of California at Berkeley. "They almost always go ahead and license them if they come to their meetings. We don't pay (the parents) adequately, so we can't ask too much of them."

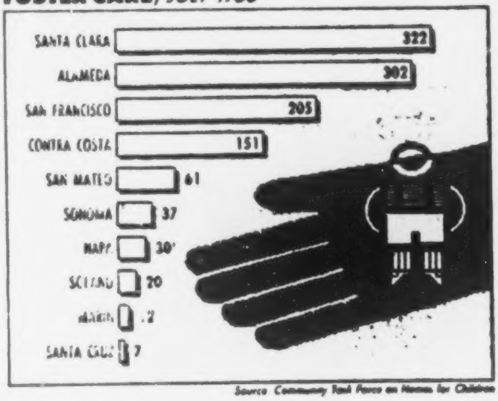
Good foster homes are at a premium throughout the state, and experts say several factors contribute to the crunch.

Increased reporting of child abuse cases has led to more youngsters needing foster care. Nationwide, about 250,000 children will be placed in foster care this year.

San Francisco is particularly

Page 5 Col. 1

BAY AREA CHILDREN IN EMERGENCY FOSTER CARE/*JULY 1986*



Source: Community Task Force on Homes for Children

Tuesday, July 22, 1986

Few Tests For Foster Parents

From Page 4

hard hit by the shortage of foster homes, with more than 200 children in emergency shelters waiting for foster or adoptive parents, twice the number the city's system was supposed to handle.

A survey of the 205 children in emergency care in April showed that 179 of them had what social workers call "special needs." Of these, 67 had medical problems or physical handicaps, six spoke no English and 32 needed psychiatric care. Seventy-four others needed to be kept together with one or more siblings.

Frances Terziev, head of foster care licensing for San Francisco's Department of Social Services, said the city's demographics are not particularly suited to a foster program.

"Most people who become foster parents are family groups, and families are moving out of San Francisco in droves because they can't afford the rents," Terziev said.

State funds for foster parents were dramatically increased in 1982 but still remain low, ranging from $291 a month for a baby to $408 for a 15- to 18-year-old. Money allocated by the Legislature for a cost-of-living increase in foster payments was deleted by Governor Deukmejian from California's 1986-87 budget.

"You have a very unfortunate situation," said Gary Seiser, a Superior Court commissioner from Los Angeles County who works extensively with the foster care system.

"If good families — upper middle-class, middle-class, however you want to describe it — wanted to be foster parents, then we probably would have a lot of good foster homes all over the state," he said. "The majority of the people who get licenses to be foster parents normally are doing it for economic reasons. Many of those people need the money."

'If we can't solve the problem, we may have to rethink the program'

Foster parents face other financial problems. An association representing about 2000 of the state's licensed foster-care providers announced last week that they will accept no new foster children in their homes because they are unable to get liability insurance.

"We're forced into the freeze in order to protect our homes and families," said Nancy Mackey, one of the foster parents supporting the action.

The governor's office has agreed to investigate the liability insurance crisis. State Social Services officials say that foster children will be placed in group homes in the meantime.

Burnout and Other Hazards

Although it can be emotionally rewarding, many foster parents say that the task is very hard and that "burnout" is a major hazard. One foster parent who has been praised for her work with troubled children said she is skeptical about efforts to recruit more foster parents.

"If we don't take care of the people we've got, it doesn't do any good to beat the bushes for people and then use them up like Kleenex," she said.

"The kids are extremely rewarding," she added, "but I don't know a foster parent who would recommend it to anyone. Except maybe their worst enemy."

"It really is just a hard life," agreed Barth. "Foster parents get very little support, and yet they save the state so much money. They really make the child welfare system work."

It is clear that changes are necessary, and if the system cannot be patched up, some fear that it will collapse.

"Where are we going to put the children? If we can't solve this problem, we may have to rethink the foster program," said Jeanette Dunckel, who advises the California Children's Lobby on foster care and adoptions issues.

"Frankly, we may have to return to large institutions if we cannot find the families we need."

TOMORROW:
What can be done

THE TROUBLED ADOPTION SYSTEM / *A SPECIAL REPORT*

The Kids Who Need Special Treatment

By Allyn Stone

When children come to stay with foster parents Chet and Sharon Hewitt, they bring a lot of worries with them.

They worry that they will never have a normal home. They wonder why their parents let them go. They even worry about their next meal.

"They would always ask, 'When is dinner? When is lunch?' " Sharon Hewitt said of the two little boys now living with the couple in their sunny Mission District flat. "It was so important to them to have some kind of routine that they could rely on.

"We give them that stability. They have stopped asking about meals unless they are really hungry — they're truly integrated into our family now," she said. "It's like how you feel when you get to home base."

Unlike some foster homes where children may stay only a day or a week, the Hewitts' is a special "therapeutic home," one of nine in San Francisco, where troubled children receive 18 to 24 months of intensive attention.

Therapeutic homes are operated by counselors, teachers and others with the skills and patience needed to care for children with emotional and behavior problems. They are paid at a higher rate than conventional foster parents, and are expected to get results. The homes take youngsters who would otherwise go to institutions that cost the government more than twice as much money per child.

Chet Hewitt said the couple's goal is "to grab a kid when he's young and make him adoptable. That's the key."

At the end of their stay, the children are either put up for adoption, reunited with their parents — if the parents have mended their ways — or placed with other family members who wish to take them.

One child who came to stay with the Hewitts at the age of 5 did not talk. Experts said severe trauma — including being kept in a locked closet and seeing one of his parents stabbed — had left him with learning handicaps.

"We took him to the park to play and he didn't know what to do — he was scared," Chet Hewitt recalled. "He had never had a chance to do that before."

After 30 months with the Hewitts, the same boy had become a frisky, friendly youngster who chatters away, loves to bang on a toy drum kit and piano and is expected to catch up with his age group in development. The "multi-handicapped" label was erased, no small source of pride to the Hewitts.

In addition to two foster children, the household now includes Sharon Hewitt's 16-year-old daughter, DeDe, whom she had when she was 16 and unmarried. DeDe "always wanted siblings," said her mother, who looks young enough to be her sister. "This has afforded us an opportunity to do that kind of sharing."

Mrs. Hewitt, a trained counselor and program director for the Western Addition YWCA, said that being a foster parent has brought a new closeness to her relationship with her 30-year-old husband.

In their four years as foster parents, the couple have taken turns working outside the home while one devotes full time to the children. Currently it is Chet, an experienced counselor of delinquent youths, who is home with the kids.

BY ERIC LUSE/THE CHRONICLE

Chet Hewitt played basketball with the two little boys whom he and his wife care for in their Mission District flat

The Hewitts avoid burnout by making use of the therapeutic foster program's "respite" provision. The Department of Social Services pays for 50 hours a month of child care, which can be used in small portions or for a whole weekend away.

Chet Hewitt and other proponents of the program would like to see it expanded and used as a model for changes in the rest of the foster system, which is receiving more and more children with special problems.

He is well aware of the sharp contrasts between his situation and that of most foster parents.

"Most foster parents don't get enough money and are not trained in the things they need to effect changes," he said. "A lot of them are overburdened. But they are the backbone of the social welfare system. They really have to be strong to do what they do."

Soon it will be time for the Hewitts to let go of their two foster children and make room for two more. That is the hard part, Sharon Hewitt said.

The couple has remained in touch with the previous two children who lived with them, and consider themselves part of their "extended family."

Their parents "sometimes call us for advice. I can't really explain how good that feels," Mrs. Hewitt said.

THE ADOPTION SYSTEM/SPECIAL REPORT

Money at the Root of Foster Care Problems

By Bill Wallace
and Ellen Stone

For many people living in the California's adoption and foster care system, the tragic death of toddler Nathan Moncrieff will come as no surprise.

"When you operate on the edge like this, it's like NASA — you're going to have a tragedy sooner or later," said one San Francisco foster parent. "Unless something is done about the system, it's going to happen again."

Nathan, the 14-month-old son of a heroin addict, died in Oakland of a number of "blunt force" injuries suffered while awaiting adoption by foster parents who turned out to be two men posing as husband and wife. The couple has been charged with the baby's murder.

[illegible]

The toddler's death has caused a flurry of investigations by the Oakland police, the state Department of Social Services, the San Francisco city attorney's office, and a blue-ribbon panel appointed by Mayor Dianne Feinstein.

It also has renewed debate about how to change the troubled child welfare system to prevent tragedies like Nathan's death. So far there is little consensus on what is to be done.

With too few qualified people along to fight the bureaucracy to recruit foster or adoptive parents of older or "hard-to-place" children, the child welfare system is struggling to adapt to a series of fundamental changes in society:

● Improved birth control and the erosion of a long-standing taboo against unwed motherhood that have reduced the supply of infants for adoption.

● The advent of independent adoptions of infants arranged by lawyers, doctors and other go-betweens in a "seller's market" that lets the biological mother handpick the adoptive parents and even insist on visiting rights, expense money and other benefits.

● Increased reporting of child abuse, resulting in temporary or permanent removal of many more children from their homes.

● The fragmentation of the "extended family" that once took care of poor children while their parents were having short-term difficulties.

● An increase in the percentage of children up for adoption who are hard to place because of health problems or other difficulties.

Problems caused by such changes began to build political pressure for national reform of the foster care and adoption systems in the late '70s and early '80s. The movement culminated in the Federal Adoption Assistance and Child Welfare Act of 1980, the first major piece of adoption reform legislation since the [illegible].

To implement the reforms contained in the federal legislation, California passed its own adoption and foster care reform legislation in 1982.

A Need for Money — and More

Despite such legal reforms, the perennial issue of inadequate funds seems at the root of many problems in the adoption and foster care systems.

County officials say their caseloads are rising while the amount of staff they have remains the same. The result, they say, are tragic mistakes such as the ones that led to Nathan's death.

The amount of money spent on finding homes for unwanted children reflects society's ambivalent feelings toward such children, according to Valerie Eiler, a teacher who operates a therapeutic foster home in San Francisco. Eiler said many people think foster parents should be paid next to nothing because nurturing is something that traditionally is done free.

"If you can salvage a human being," Eiler said, "we should reward that in the way our culture rewards things — with a decent amount of pay."

Efforts are under way to increase money for child welfare services, including adoption and foster care. Under legislation passed last year, the state Department of Social Services is boosting its payment to county social service departments for staff services to children.

Also, a bill to be considered by the state Senate's Appropriations Committee next month would increase the amount of money the state pays to private adoption agencies to help find homes for "hard-to-place" children — older children, those with handicaps or emotional problems.

The payment for placing special-needs children would jump from $[illegible] to $[illegible] if the measure becomes law, according to Assemblyman Robert Campbell, D-Richmond, author of the measure.

"Basically, the argument we're making is that if these kids aren't placed for adoption, they remain in foster care — which is not only not good for the child, but also costs a lot more," said [illegible], legislative assistant to Campbell.

Many child welfare experts say the adoption and foster care system needs more than money.

Leaders of the National Committee on Adoption, representing private adoption agencies, say one of the big problems facing the system is independent adoption "facilitators" who are cornering the market in healthy, white, easy-to-place infants, while leaving agencies with the difficult cases.

In agency adoptions, the birth parents relinquish their right to the child before the placement process begins, and the agency is responsible for finding the child a new home.

In independent placement, the mother chooses the new parents herself and turns the child directly over to them when it is born. Currently, social workers screen the parents in an independent adoption after they take custody. Critics complain the social workers perform merely a "rubber stamp" function.

The National Committee wants people who arrange independent adoptions to be more strictly regulated by the government. It also wants laws passed to require careful screening of the prospective parents — and counseling of the birth mother — by a trained social worker before an independent adoption takes place.

Many advocates of independent adoptions shrug off criticism by agencies as sour grapes. However, [illegible], a representative of the Independent Adoption Center in Pleasant Hill, said she believes counseling should be required in independent adoptions.

"Doctors and lawyers may be very competent at some things but what they're not competent to do is deal with the emotional issues in adoption. That's the missing link in independent adoptions," she said.

Many people involved in independent adoptions already stress the importance of counseling.

Mary [illegible], a mother from Marin County who placed her infant daughter with an adoptive family last year, said that fees for counseling were among the expenses the adopting couple paid.

The Post Adoption Center for Education and Research, an Oakland-based private adoption service, advised her to seek counseling as part of the adoption process, she said.

"They were right," [illegible] said. "Putting a child up for adoption hurts a lot. It's not something a person should go through alone."

Racial Matching

The particular difficulty minority children face in finding adoptive homes could be eased somewhat if social workers would set aside their policy of avoiding cross-racial adoptions, according to a group called the National Coalition to End Racism.

"Not everybody will rush right out to adopt a child of another race," conceded Carol Coats, a Michigan foster mother and president of the group. "It's not everybody's thing. But there are people who not only would but could do a good job."

Coats pointed to Nathan Moncrieff's placement with the men now charged with killing him as "an example of the lengths people will go to to match. In the fervor to get black kids into black homes, patently things are happening to children."

Children's advocates say a host of similar reforms are needed in the foster care system.

Maureen [illegible], an investigator for Los Angeles County Children's Services, noted in testimony to the Legislature that it takes from nine months to a year to license foster care operators in her area. The bureaucracy responsible for screening and licensing foster care operators needs to be streamlined, she said.

"Many prospective foster parents lose interest during the waiting period and go on to do something else," she said.

In addition to help from the government, some foster care experts believe the system could also use a hand from the private sector.

Richard Barth, a professor of social work at the University of California at Berkeley, said he would like to see corporations and philanthropic organizations get involved in helping foster parents and children.

Little things like tickets to games and programs can provide a special treat to the youngsters while giving the parents a few hours of much-needed rest, he said.

Foster mother Eiler said there should be better screening and orientation of prospective foster parents. She also suggested that many foster parents would benefit from an independent ombudsman or liaison to help them deal with the Department of Social Services.

"Social workers and foster parents do not really speak much of the same language," she said.

A Need for New Attitudes

Some feel an outside "ombudsman" or support group would also be beneficial for foster children. A [illegible]-year-old man who carries painful memories of his childhood in a San Jose foster home suggested in an interview that grown-up foster children should form a group to offer support to children now living in such homes.

"I would be willing to do something like that as a volunteer," he said. "The courts and the social workers don't listen to the children enough, or ask them enough questions."

He said foster children need to talk to someone who has experienced the same doubts and fears. "You don't know why you're being taken from your parents," the former foster child said. "You think you are causing it yourself."

But all such proposed reforms skirt the fundamental problem facing California's troubled adoption and foster care system: the supply of children awaiting adoption far outstrips the demand. Experts say this problem will not be solved until our society develops a new attitude toward unwanted children.

"The child welfare system is an invisible system, run by invisible people, serving invisible children," said Margaret Brodkin, the executive director of Coleman Children and Youth Services, an advocacy group for children.

"Most people don't pay any attention to what happens in it until there is a disaster."

Flaws in Reform Bill On Child Placement

By Bill Wallace

California officials began a restructuring of California's adoption and foster care system with the passage of special state legislation three years ago.

What happened to the measure illustrates some of the difficult problems involved in reforming the state's child placement policies.

The legislation, known as Senate Bill 14, was supposed to reduce the number of abused and neglected children in foster care by reuniting foster children with their parents where possible.

It also was supposed to encourage moving foster care children into permanent adoptive homes and to reduce the number of children who are shunted from one foster home to another.

The legislation made several changes in the legal procedure for placing a child in foster care, and required county welfare departments to keep detailed written case plans for each foster child under their supervision.

It required the courts to review plans for handling each foster care case and to review them every six months. The bill also replaced two outmoded child abuse programs with four new ones designed to relieve pressure on the state's caseload.

More than $120 million was set aside to implement the reforms in the bill. But many observers feel that Senate Bill 14 has not been effective enough.

"Because it was drafted so hastily, a lot of things didn't get done that needed to be done," said Sterling [illegible], senior deputy counsel for Los Angeles County and the president of the Bar Association's Adoptions Committee. "Let me put it this way: It hasn't been a panacea."

According to a study of the measure by the nonpartisan state Legislative Analyst's office last year, some goals of the legislation have been achieved, including a reduction in the rate of children entering foster care and fewer transfers of children between homes.

Although children are entering foster homes at a slower pace, the overall numbers continue to rise about 10 percent a year. In February 1985, there were [illegible] children in foster care in California. By last February, there were [illegible].

"At the time of SB 14, there was a lot of optimism about it reducing the foster care caseload," said Michael [illegible], a program analyst with the state Legislative Budget Committee. "Despite that optimism, it clearly hasn't gone down."

NATHAN MONCRIEFF
He died of 'blunt force' injuries

The report by the legislative analyst also noted that, although the number of children being returned to their families appeared to be increasing, it was unclear whether this was a good development.

"It is possible ... that these accomplishments have been accompanied by an increase in reabuse of those children who were left with their parents, or an increase in the number of children who were later returned to foster care," the report said.

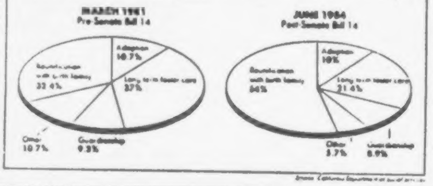
The apparent cause of many of the legislation's problems is the relatively small amount of money the state is spending to implement the reforms.

"Most of the counties that have had problems in implementing SB 14 maintain that the amount of funds provided by the state for the program have been inadequate," the Legislative Analyst's report said.

"It is unlikely that counties will fully implement SB 14 as long as they continue to believe, whether rightly or wrongly, that they have not received adequate funds to support the necessary staff."

PLANS FOR FOSTER CARE CHILDREN

State Senate Bill 14 was designed to reduce the number of abused and neglected children in foster care by reuniting foster children with their parents where possible. The legislation made several changes in the legal procedure for placing a child in foster care, and required county welfare departments to keep detailed written case plans for each foster child under their supervision.



Source: California Department of Social Services

Newsweek
May 27, 1985 / $1.95

JUSTICE

When Children Go to Jail

If there's one thing the bleedingest heart and the hardest nose can agree on about youth crime, it's this: whatever else should be done with kids who get in trouble, they shouldn't be put in jail with adults. Federal law requires some sort of segregation by age, and most states pay at least lip service to that goal. But in this area, too, the law's reach exceeds its grasp: depending on whose figures are used, at least 27,000 and at most 500,000 youths are tossed into adult clinks every year. It is a frightening experience and can be far worse. Kids behind bars with grown-ups may be sexually abused. Occasionally, they are tortured, even murdered. Some become suicidal: last August a 15-year-old California girl arrested for assaulting a police officer hanged herself after four days of isolation in the local jail. Fearful of further injuries, groups in California last week filed four suits arguing that for jails, at least, separate and better is the appropriate policy.

A 13-year-old runaway in a Tennessee cell: The first few hours are the most dangerous

Indeed, the problem may be most severe in California. Lawyers estimate that nearly 100,000 youngsters each year are held in local jails and police lockups around the state. Nearly all are charged with minor offenses; few ultimately go to jail after court proceedings. Some youths are guilty of nothing more than being abused by their parents: they are locked up for their own protection. Still, "the conditions in which they are kept are often like something out of Dickens," says Mark Soler, executive director of the Youth Law Center in San Francisco. "Small, dark cells. Little human contact. Hours of boredom and depression. And, in the worst cases, physical abuse by jail staff and other inmates." California officials usually minimize the problem—or profess surprise that it exists. A spokesman for Ed Edelman, chairman of the Los Angeles County Board of Supervisors, said his boss thought that those in jail consisted of "big drug dealers, or gang members." Edelman ordered his own investigation.

Nationally, horror stories abound. In February a federal judge permanently enjoined Ada County (Boise), Idaho, to keep all but the most violent juveniles out of its jail. The ruling was prompted by the 1982 murder of a 17-year-old boy who was jailed for owing $73 in traffic tickets; his cellmates tortured him and finally beat him to death. In a West Virginia jail a truant was murdered by an adult inmate; in an Ohio jail a teen-age girl was raped by a guard. All of which leads Paul Mones, legal director of the Public Justice Foundation in Santa Monica, to call jailing of youths "the most insidious form of child abuse, because it is state-sanctioned."

A Taste of Jail: Perhaps, but according to federal officials the system deserves credit for a vast improvement. "Since 1974, we've made a lot of headway," says Alfred S. Regnery, administrator of the Office of Juvenile Justice and Delinquency Prevention. Relying on 1983 figures, he reports that the number of juveniles held in jail with adults was down to 27,552, a 71.8 percent drop over the previous four years. Moreover, he suggests, it may be impossible to eliminate the problem entirely. He cites the case of a Texas judge whose county had just built a new jail and lacked money to open a separate facility. "What are we supposed to do," Regnery recalls the judge asking, "build an entire building so that a kid can have a bed one night out of three?" And personally Regnery finds himself in a bind. While his office is charged with promoting the separation of youths and adults, he agrees with those who "allege that the kids are better off in a regular jail if you can get them in with the right adults."

Even Regnery's critics admit that some progress has been made. Even in California, most of the kids held in adult jails are released within six hours; by some counts, only about 10 percent were held longer. Typically a police officer brings a juvenile into a precinct house or county jail. There the kid is booked, the cop fills out a report and the kid waits in a cell to meet a probation officer. Then the parents are called or the probation officer decides to "divert" the child—either way, ending the detention. But Mark Soler says those first few hours in a cell are the most dangerous. Often the children are upset; they are held in isolation cells where there may be little to do but bang their head against the wall. They are scared. In December 1982, 15-year-old Robbie Horn hanged himself in a Kentucky jail where he had been held for 30 minutes. His offense: arguing with his mother. Some parents do not recognize the dangers, hoping that a taste of jail will cause their youngster to be "scared straight." That was the case in Boise with the brutally tortured and murdered 17-year-old. "We had no idea it would turn out like this," his parents said later.

A teen suspect in adult solitary: The wrong place

What's really at work in this issue is what can be styled the Stop Sign Effect: try persuading city-hall bureaucrats to put a sign at a dangerous intersection; then watch them scramble after a youngster is run over. As soon as a child gets sodomized in an adult jail, says Jerry Miller, head of the National Center on Institutions and Alternatives, almost "everybody becomes a corrections reformer." The question now is whether lawsuits and legislation are enough, or must a few more youngsters die first?

ARIC PRESS with RICHARD SANDZA
in San Francisco and NIKKI FINKE GREENBERG
in Washington

WASHINGTON POST
Tues., Nov. 26, 1985 page C5

Suits Filed on Behalf of Youths Jailed in D.C.

Actions Seek to Separate Juveniles and Adults and to Obtain Damages for Assaulted Boy

By Peter Perl
Washington Post Staff Writer

Lawyers representing juvenile defendants, including an 11-year-old boy who was sexually assaulted last year in a D.C. Superior Court cell block, filed two federal suits yesterday, a class action suit charging that juveniles are illegally incarcerated with adults at the courthouse and a second suit seeking $5 million in damages on the 11-year-old's behalf.

One lawsuit, a class action on behalf of the estimated 1,000 juveniles held at the court each year, describes cell block conditions as "cruel, harsh, punitive and oppressive" and said the mixing of youths and adult criminal defendants violates the Federal Juvenile Delinquency Act of 1974.

The suits, filed in U.S. District Court, seek a court order barring the detention of juveniles in the Superior Court basement and forcing the U.S. Marshal's Service, which operates the facility, to find alternative facilities for youngsters awaiting court appearances.

"Children all across this country have been raped by jail staff and other prisoners; they're murdered in their cells and they commit suicide at an alarming rate. Adult jails are no place for our children," said Daniel N. Arshack, lawyer for the 11-year-old who was identified in court papers as "K.G."

Arshack said Justice Department studies show an excessively high suicide rate among juveniles imprisoned with adults compared to those held with other youths.

Similar lawsuits in Ohio, Colorado, Idaho, New Mexico and Kentucky have resulted in court orders preventing state authorities from mixing juvenile and adult defendants, said Mark I. Soler of the Youth Law Center, a San Francisco-based public interest law firm that filed the class action civil rights suit.

Several other states, including Pennsylvania, Massachusetts and Michigan, also have closed their adult jails to juveniles and taken steps to find alternatives, the lawyers said.

The law bars holding juveniles with adults, Soler said, and court cases have resulted in orders that youngsters be held in juvenile facilities, group homes or their own homes rather than in adult jails.

Justice Department studies estimate that up to 500,000 juveniles are jailed annually, most for nonviolent crimes, Arshack said.

Defendants in the cases include Attorney General Edwin Meese III, who has jurisdiction over the marshal's service; Stanley E. Morris, director of the service; and Herbert M. Rutherford III, the U.S. marshal for the District of Columbia. Officials at the marshal's service and the U.S. attorney's office were not available for comment.

The class action suit—filed on behalf of "Charles A.," 15, a detainee at the District's Cedar Knoll detention center, and "Donna B.," 16, a resident of the city's Children's Receiving Home—said the juveniles' rights are violated during the periods when they are transferred to Superior Court for periodic court dates.

"Donna B. was arrested for running away from a group home .... Juveniles like her are charged with things as benign as truancy, and the law says you don't mix them with adult criminals, for obvious reasons," Arshack said.

In the K.G. case, an 11-year-old detained for allegedly assaulting a playmate, was sexually assaulted by two older boys who took his clothes off, and forced him to commit oral sodomy twice. He later contracted syphilis, and suffered severe emotional problems, the complaint said.

The suit outlines repeated complaints by jail staff who contended there was inadequate staffing to assure safety, and contends that federal officials were negligent in failing to remedy the condition.

Los Angeles Times

Sunday, February 21, 1982

Judge on Trial

Justice for Children: A Jail Cell?

By RONALD B. TAYLOR,
Times Staff Writer

IRONTON, Ohio—Juvenile Court Judge Lloyd W. Burwell believes that "this nation has been coddling kids for 20 years" and that one way to make "kids be good" is to give them time in county jail. He has put hundreds of them there, many for truancy.

But when two 15-year-old girls locked up at Burwell's direction were sexually attacked by a male jailer and two adult male inmates, the stage was set for a legal battle over the judge's get-tough policies.

The resulting lawsuit, scheduled for trial in Cincinnati in April, raises fundamental questions about locking children up in adult jails and about the role of the juvenile court in the law-and-order 1980s. Should the judge be the all-wise, all-powerful parent, or simply the trier of fact, bound by constitutional guarantees of due process?

Honor Student, No Record

The case had its beginnings here a year ago when an honor student with no prior arrest record, known in court records as Deborah Doe, and a girlfriend took a family car and, without telling anyone, headed for South Carolina to visit Deborah's brother.

The next morning, Deborah's father, listed in the suit as John Doe, reported the girls missing. "Debby had never done anything like that before," he said in an interview, "but they (lawmen) told me I'd have to sign a warrant or they wouldn't do anything about finding them."

Police officers picked up the girls two days later, out of money and gas and 800 miles from home. They put them in a halfway house and called their parents.

Doe and his wife immediately brought the girls home, then asked to have the warrant canceled.

However, Burwell insisted on jailing the girls first, Doe said.

'Parents Have Lost Control'

Burwell believes that "parents have lost control," and his solution to delinquency problems is jail. With the approval of most local school officials, his standard sentence for truants is a day in the Lawrence County Jail for every day they skip school.

While their parents waited, probation officers interrogated Deborah and the other girl. Then the judge called the families into his courtroom, lectured them and ordered the girls jailed.

Doe said that he was stunned but that the judge told him the girls would be safe.

Burwell contends the parents agreed to the jailing. The Does deny it, saying, "We wanted our daughter home."

The girls were jailed on Friday, Feb. 13, 1981. On Saturday, Burwell said in an interview, he visited them "to see if they had had their comeuppance . . . (but because) they were still laughing and showing no remorse, I left them there."

On the following Tuesday, Burwell held a formal Juvenile Court hearing in which he lectured the girls and their parents, sentenced the girls to 10 days in jail, gave them credit for time served and suspended the remainder of their sentence on the condition that they behave

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JAIL: Justice for Children Found in Cell?

Continued from First Page

on probation.

But, unknown to Burwell, something had happened in the jail the day before.

In the early morning hours of Monday, jailer Brian Layne, 21, and two 20-year-old male prisoners later admitted going into a cellblock containing four teen-age girls and sexually assaulting three of them.

"When we got Debby home she was sick, terribly sick," John Doe said, "but we didn't know what had happened. She didn't say anything."

Jailer Revealed Incident

Another jailer, however, heard of the incident and told the sheriff, who confronted Layne. Layne admitted the attacks, officials say.

The sheriff informed Burwell, who ordered the girls picked up for questioning immediately. This was two weeks after the episode, and the girls were back in South Point High School.

"No one called us to let us know that the probation office had taken Debby out of school," Doe said angrily. "When she didn't arrive home on the bus, we were frantic."

Eventually, Burwell's office called and told the Does they could pick up Deborah. The Ironton court is 20 miles from their home. When they arrived, the judge called them in and told them what had happened.

Doe said, "I could have killed him. He said nothing would happen to Debby, she'd be safe, and then that jailer took our daughter out and passed her around."

Attacker Got 30-Day Term

Weeks later, the jailer and two prisoners pleaded guilty to criminal charges of sexual battery and contributing to the delinquency of minors and were sentenced. The jailer got 30 days in state prison.

When asked about the episode in a recent interview, Burwell said angrily, "That (episode) has nothing to do with anything else. It was an unusual thing and it clouds up what I've been trying to do here for five years."

Burwell, 57, a blunt-spoken man who chain-smokes cigarettes, even on the bench, relishes his reputation as a mean-tempered judge. "I want this to be the last place (juveniles) want to come."

Records show that he sentenced one boy to two days in jail for smoking cigarettes, swearing in class, being tardy and not dressing for physical education class.

Burwell said that he "bluffs" youngsters into thinking they will do a day in jail for every day of truancy, for example, but that he usually lets them out early and then watches over them like a father.

A Question of 'Backbone'

"You are in an era in which parents have lost control of their children. They cannot figure out how to get it back. The don't have the backbone to confront their children and they need someone to do it for them," he said.

Burwell sees himself as that someone, and jail as his ultimate weapon. Court records dating from 1977 to 1981 show:

—A boy who cursed his mother and refused to let her punish him was jailed for three days.

—Two 14-year-old girls had to serve four days each for running away.

—A 16-year-old boy was sentenced to 14 days for skipping school and being unruly.

In all, Burwell has jailed more than 100 youngsters in three years for truancy, for being unruly at home or in school, for running away and for drinking, all classed as "status offenses" because they would not be crimes if the offenders were adults.

Burwell has also jailed nearly 400 other juveniles charged with crimes or delinquent behavior, including a 15-year-old boy who hanged himself in the jail after the boy's mother warned jailers her son was intent on suicide.

Judge as 'Superparent'

Burwell's critics contend his court is but an "exaggerated example" of the legally outdated, arbitrary system that once allowed judges to play "superparent."

In her federal suit, Deborah Doe alleges that Burwell violated her constitutional right to due process and that he continues to violate the rights of other juveniles he sends to jail.

She is being represented by the American Civil Liberties Union and the San Francisco-based, federally funded Youth Law Center.

Burwell, in a pretrial deposition, read the statement of one of the girls involved, reporting she "had intercourse with jailer Brian Layne . . . . Brian unlocked the cell door . . . and told me what cell to go to. . . . There was no force used or threats made."

But Mark I. Soler, the Youth Law Center attorney representing Deborah, contends that his client faced an "inherently coercive situation" that left her no choice.

Also at issue in the suit is the court's right to lock up "status offenders" and to confine them in an adult jail, even if jailers attempt to keep them separate from adult prisoners.

Lack of Rural Facilities

Often, local governments of rural counties do not have the money to build and staff separate juvenile facilities, and local jails become the substitute.

No one knows how many children are locked up in adult jails in the United States each year, but indications are that the practice is widespread. The Children's Defense Fund surveyed 449 jails in 10 states in 1976 and reported that 38% were routinely using jails to detain or punish juveniles.

Most of these youngsters had committed no serious crime; nearly 18% were status offenders. The Children's Defense Fund investigators reported that conditions in most jails were abysmal and that children held in them were frequently brutalized, even raped.

The California Youth Authority reports that a sampling taken from the 114,174 juveniles held in jails or lockups in 1979 disclosed that 70% had contact with adult prisoners, a violation of California and federal laws.

Laws in Ohio are similar to California's, requiring the separation of juveniles and adults and limiting the jailing of status offenders to specific circumstances.

Conservative County

But in politically conservative Lawrence County, juveniles are not "coddled" by such things as a separate detention center.

Lawrence County is on the Ohio River's southern loop through Appalachia. Most of the people here live in the river towns, like Ironton, Coal Grove and South Point, and work in the iron foundries and chemical plants across the river in West Virginia and Kentucky.

Burwell, a lawyer, has no special training in Juvenile Court procedure or juvenile justice. He was appointed to the combined Probate-Juvenile Court bench in 1977 and two years later was elected to a full six-year term.

His jurisdiction extends from Athalia and Proctorville, downriver 40 miles to Hanging Rock and back into the hills and hollows where hundreds of poor families scratch out a living, making do with welfare checks and backyard gardens.

People living in the hollows say they fear Burwell because if the judge decides they are unfit parents he orders their children "snatched up" and put in foster care, and if their children "get smart" with school officials he "locks 'em up."

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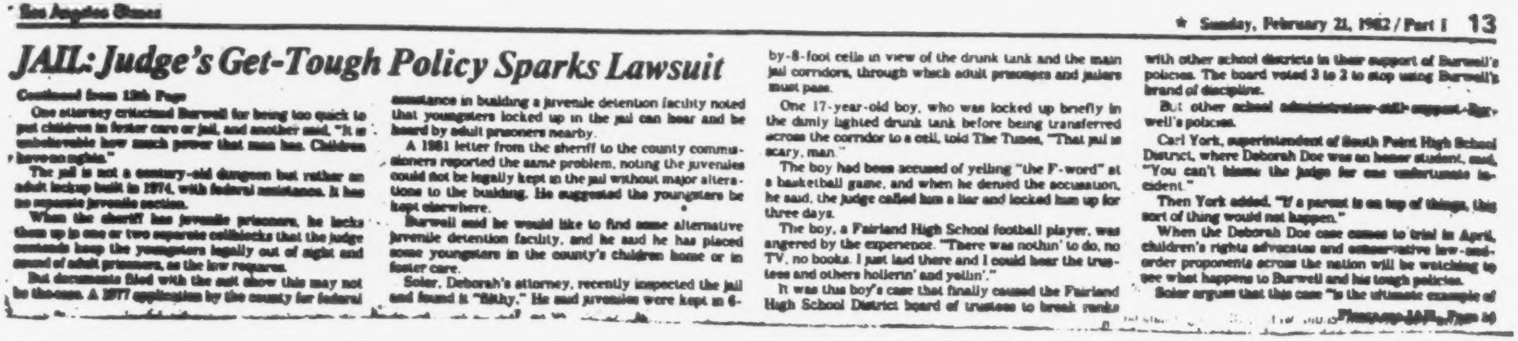

Los Angeles Times

★ Sunday, February 21, 1982 / Part I 13

JAIL: Judge's Get-Tough Policy Sparks Lawsuit

Continued from 1st Page

One attorney criticized Burwell for being too quick to put children in foster care or jail, and another said, "It is unbelievable how much power that man has. Children have no rights."

The jail is not a century-old dungeon but rather an adult lockup built in 1974, with federal assistance. It has no separate juvenile section.

When the sheriff has juvenile prisoners, he locks them up in one or two separate cellblocks that the judge contends keep the youngsters legally out of sight and sound of adult prisoners, as the law requires.

But documents filed with the suit show this may not be the case. A 1977 application by the county for federal assistance in building a juvenile detention facility noted that youngsters locked up in the jail can hear and be heard by adult prisoners nearby.

A 1981 letter from the sheriff to the county commissioners reported the same problem, noting the juveniles could not be legally kept in the jail without major alterations to the building. He suggested the youngsters be kept elsewhere.

Burwell said he would like to find some alternative juvenile detention facility, and he said he has placed some youngsters in the county's children home or in foster care.

Soler, Deborah's attorney, recently inspected the jail and found it "filthy." He said juveniles were kept in 6-by-8-foot cells in view of the drunk tank and the main jail corridors, through which adult prisoners and jailers must pass.

One 17-year-old boy, who was locked up briefly in the dimly lighted drunk tank before being transferred across the corridor to a cell, told The Times, "That jail is scary, man."

The boy had been accused of yelling "the F-word" at a basketball game, and when he denied the accusation, he said, the judge called him a liar and locked him up for three days.

The boy, a Fairland High School football player, was angered by the experience. "There was nothin' to do, no TV, no books. I just laid there and I could hear the trustees and others hollerin' and yellin'."

It was this boy's case that finally caused the Fairland High School District board of trustees to break ranks with other school districts in their support of Burwell's policies. The board voted 3 to 2 to stop using Burwell's brand of discipline.

But other school administrators still support Burwell's policies.

Carl York, superintendent of South Point High School District, where Deborah Doe was an honor student, said, "You can't blame the judge for one unfortunate incident."

Then York added, "If a parent is on top of things, this sort of thing would not happen."

When the Deborah Doe case comes to trial in April, children's rights advocates and conservative law-and-order proponents across the nation will be watching to see what happens to Burwell and his tough policies.

Soler argues that this case "is the ultimate example of

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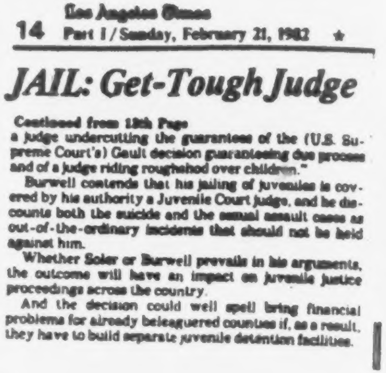


Los Angeles Times

14 Part I / Sunday, February 21, 1982 ★

JAIL: Get-Tough Judge

Continued from 13th Page

a judge undercutting the guarantees of the (U.S. Supreme Court's) Gault decision guaranteeing due process and of a judge riding roughshod over children."

Burwell contends that his jailing of juveniles is covered by his authority a Juvenile Court judge, and he discounts both the suicide and the sexual assault cases as out-of-the-ordinary incidents that should not be held against him.

Whether Soler or Burwell prevails in his arguments, the outcome will have an impact on juvenile justice proceedings across the country.

And the decision could well spell bring financial problems for already beleaguered counties if, as a result, they have to build separate juvenile detention facilities.

VOL. 135 — No. 44,275 PORTLAND, OREGON, SUNDAY, JANUARY 20, 1985

Boys school lock-up stirs legal outcry

By KATHIE DURBIN
of The Oregonian staff

WOODBURN — The rooms in the D-1 detention unit at MacLaren School for Boys measure 8 feet by 9 feet and lock from the outside.

Each of the 30 rooms is furnished with a stainless steel sink-and-toilet unit and a plastic-covered mattress on a metal frame bolted to the wall. The grate-covered window in each door looks out across a wide passageway toward an identical row of cells on the other side.

A federal judge last month ruled that the way MacLaren used its detention and isolation unit to lock up young delinquents violated their constitutional protection against cruel and unusual punishment. The judge ordered the parties involved to draw up plans for correcting a long list of problems in D-1.

In the meantime, boys committed to MacLaren continue to do time in the stark cell block, a place where no programs exist to break the 24-hour-a-day monotony of four walls and a view of the world framed by the heavy metal bars at the windows.

Last Monday, 17 boys were confined to D-1. Except for meals and showers, most of them had been confined to the cells since Friday. They had not been let out for exercise all weekend because of what MacLaren officials considered a volatile situation. A mentally unstable young man, a regular in D-1, had kept the unit's residents awake into the early morning hours screaming and pushing feces out the window of his cell. He was sent to Oregon State Hospital the next day for evaluation.

If the incident bothered the others, they didn't let on. "People don't get upset with other people in here. They just laugh," said a boy named Lee, who landed in D-1 after he ran away from a work camp near La Grande. "Every time he's in here he does something like that."

Offenses vary

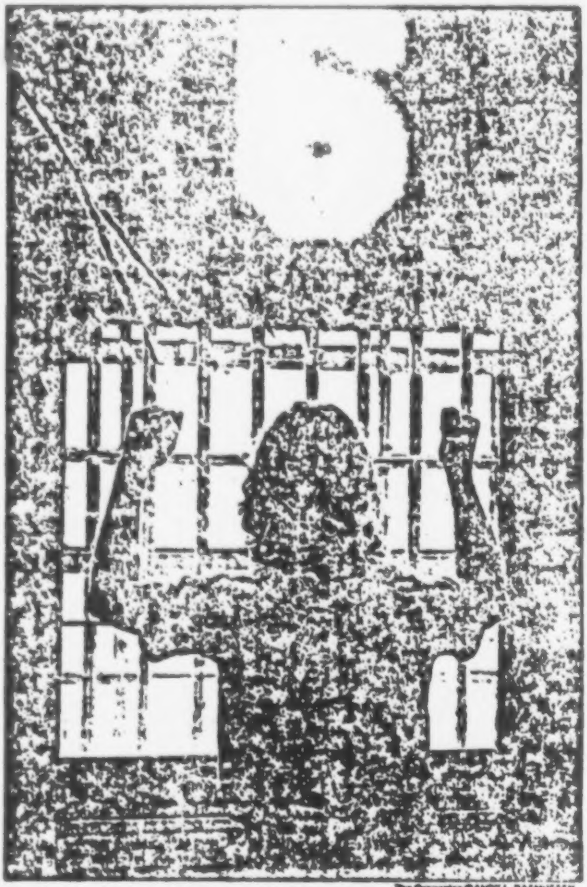
Like inmates in any lockup, the boys in D-1 pass the time reading and talking through the windows in the doors of their cells. Some do push-ups, some occasionally burst into song to break the heavy silence. Mostly, they wait for their meetings with the detention committee, which has the authority to free them from D-1.

On Monday, only one boy was in D-1 for assaultive or "out-of-control" behavior. The rest were locked up for such offenses as violating the terms of their paroles, trying to escape, harassing or fighting with other students and refusing to participate in local programs.

Officials at MacLaren, which houses some of the state's most hardened juvenile delinquents, insist D-1 is not used for "punishment." But Superintendent William L. Carey said if he could get money to staff a "time-out" cottage for boys who require extra security measures or temporary separation from the rest of the MacLaren population, he could bring down the population of D-1 to three or four at any given time.

Carey is particularly sensitive to the uses of D-1 since U.S. District Judge James M. Burns ruled Dec. 17, 1984, in a class-action suit that locking juveniles up in jail cells must be done only as a last resort.

"Defendants (MacLaren and other state officials) should not place a student in D-1 or any other form of isolation, unless the student has engaged in conduct that creates an imminent danger of physical harm to himself or others," Burns wrote. "Absent such a danger, the legitimate state interests in safety and internal control are insufficient to outweigh the individual's competing liberty interest."



The Oregonian/RANDY L. RASMUSSEN

LOCK-UP — Young man gazes out window of detention unit cell 6 at MacLaren School for Boys, killing time until he is sent to residential cottage. Present conditions and uses of the schools' 30-cell short-term detention unit were declared unconstitutional last month by a federal judge.

Moreover, Burns said, D-1 was being used inappropriately to "punish" severely mentally disturbed boys in the absence of adequate mental health services at the institution. "Defendants are, in effect, using a lock-up instead of providing treatment," he wrote.

Changes implemented

Carey brought a background in mental health with him when he came to MacLaren last April from the Secure Adolescent Treatment Center at Oregon State Hospital. Since his arrival, he has made some changes in the use of D-1, especially in reducing the average length of stay in the unit to about a day and a half.

But Carey said his hands are tied in dealing with some issues raised by the court because of the institution's inadequate budget and crowded conditions in the cottages that remain open. Seven of MacLaren's 16 cottages have been closed in the past 16 months, with a corresponding reduction of staffing. On Monday, MacLaren had 300 residents, although it is budgeted for only 295, and Carey could find no room either on the Woodburn campus or at Hillcrest School in Salem for several boys who were to be released from D-1.

Crowded cottages and overworked staff members multiply the troubles that lead boys to D-1 in the first place, Carey said, and boys who are moved through the detention facility too swiftly to keep the numbers down almost inevitably return.

"We've had to put kids out who haven't finished treatment yet," he said. "As a result, this year we're going to have the highest (parole) revocation rate in MacLaren's history."

Related stories on Page C4.

4M B1

O/NORTHWEST

The Oregonian, Tuesday, December 18, 1984

Section B

Editorial, Forum

Judge says MacLaren policies violate rights

By JIM HILL
of The Oregonian staff

A federal judge in Portland held Monday that conditions in the isolation and detention unit at MacLaren School for Boys in Woodburn violate the constitutional protection against cruel and unusual punishment.

U.S. District Judge James M. Burns found that school policies were inadequate in such areas as the length and type of confinement, procedural safeguards for residents, supplies and clothing, strip searching, discipline, use of restraints, exercise and mental health care.

The judge did not immediately order injunctive relief but asked lawyers for both sides to submit suggestions within three weeks proposing how relief should be fashioned. He said he would schedule a conference to determine the extent to which agreement on relief could be reached.

In December 1977, 11 boys confined at MacLaren filed a class—action suit on behalf of present or future residents of the school alleging that policies there violated their state and federal rights. An amended motion for preliminary injunction was filed in February 1982 seeking relief from the practice of confining residents in isolation and detention, and from the methods used there.

Defendants in the case are a group of state agencies and officials, including the Oregon Children's Services Division, the Department of Human Resources and the Oregon Department of Education.

William L. Carey, superintendent of the school since April, said Monday, "I think the conditions that existed in 1977 may not exist today." He said the population of the school stood Monday at 310 residents ranging in age from 12 to 20 years old, all committed while juveniles.

Carey said he could not comment further until after reading the court opinion.

Burns found that punitive actions by the defendants degraded and humiliated children by depriving them of mattresses, bedding, clothing, underwear and socks, drinking water, toilet—flushing capability, toilet paper, ventilation, access to dining room meals and exercise.

"These practices are inhumane and violate plaintiffs' constitutional rights to treatment and to be free from cruel and unusual punishment," the judge wrote. "Moreover, there is no legitimate state interest in safety, security or internal control to outweigh the individual interests being violated by these practices."

Burns found that an "excessive number" of students had been assigned to the detention unit. He said, as an example, that from Dec. 28, 1980, through Sept. 27, 1981, there were 2,298 admissions to the unit. He concluded that with an average daily population of 422 to 467 at the school at that time that about half the school was going through isolation during a month.

The isolation unit, the opinion said, consists of two 15-cell cellblocks.

Burns said examination of residents' files revealed that the reasons given for placement in isolation ranged from trivial (using foul language) to extreme (attacking others) to grossly inappropriate (side effects from psychotropic medicine).

The judge also found:

— That residents were confined in detention even though less restrictive, less punitive measures were available to deal with their conduct.

— The impact of repeated, long—term confinement to students who become depressed, scared and angry has been "devastating."

— The hearings procedures for residents placed in isolation is inadequate.

— The practice of restraining residents with hard restraints is an unnecessary substitute for adequate programming and violates residents' rights.

— Education programs are not provided to residents in isolation in conjunction with the campus school department, and book and magazine selection is sparse.

— Health care is inadequate, and drug and alcohol treatment programs are unavailable.

— Although many minors confined to the detention unit have mental disorders and engage in self—destructive behavior, they usually receive little, if any, mental health treatment.

ROBERT K. v BELL

The State

Metro\Region

B

Columbia, South Carolina ••

Saturday, July 30, 1983

Study Says Law Violated At State Hospital Unit

By HOLLY GATLING
State Staff Writer

An investigation of teenage mental patients' medical records has uncovered violations of law and policies at the State Hospital's Child and Adolescent Unit.

The six-month investigation conducted by State Ombudsman William V. Bradley cited violations regarding the use of drugs, physical restraint and isolation.

The records of 24 adolescents were examined from Dec. 1, 1982, through the first two weeks of January.

Juveniles incarcerated at the S.C. Department of Youth Services, referred to the hospital's Blanding House after suicide attempts or other evidence of mental illness, were the principal victims of the violations, according to the report released Friday.

The DYS serves as the juvenile equivalent of the adult prison and parole system. It was established to deal primarily with delinquent youths, but also houses a large number of children and adolescents whose problems are emotional rather than criminal.

The investigation uncovered a "distinct contrast" between the treatment given incarcerated youths from DYS and the treatment offered to teens who came to the hospital from places other than prison.

While the imprisoned youths were routinely drugged, tied down and isolated for treatment as well as for punishment, the non-DYS patients rarely received such treatment, the report said.

"The non-DYS patients were much less aggressive in their attitudes and behaviors toward the Blanding staff, and consequently the staff exhibited a more indulgent attitude toward them," according to the report.

The report focused specifically on a discriminatory set of "Suggested Guidelines" for DYS patients.

The guidelines, unauthorized by the Department of Mental Health, encouraged the use of sedatives "to make certain patient sleeps through the night" and to "prevent escape attempts." To avoid possible drug addiction the alternate use of a variety of sedatives was suggested.

The overall documentation in medical records "lacked detail and completeness," the report said, and some records contained what appeared to be inappropriate subjective comments about the patients, such as, "'This young man will cheerfully kill without a second thought about it.'"

Among its findings, the study said one directive was violated. It said that patients were not informed about the benefits or hazards of drugs and that patients' record for prescribing these drugs were inadequately

● See Report, 11-B

Report

From 1-B

documented.

The report said two state laws were violated. One deals with treatment and medication of patients; the other with restraint and punishment of patients.

Bradley said the Department of Mental Health has asked 5th Circuit Solicitor James Anders to investigate the allegations.

The report avoided naming names, Bradley said, because, "We felt that that was the (mental health) department's responsibility and there is litigation pending."

He was referring to a federal lawsuit filed last February on behalf of eight teenage boys, most of them suicidal, who accused the hospital of violating their constitutional rights by using illegal and inhumane treatment procedures on them.

The boys, who ranged in age from 15 to 17 when the suit was filed, are being represented by the South Carolina Protection and Advocacy System for the Handicapped Inc. Named as defendants in the suit are Dr. Robert E. Bell, a psychiatrist and former director of the State Hospital's Children and Adolescent Unit; Bell's former supervisor, Dr. Herbert D. Smith, a psychiatrist; Williams S. Hall, commissioner of the S.C. Department of Mental Health, Racine D. Brown, assistant commissioner; Dr. Karl V. Doskocil, a psychiatrist and superintendent of the State Hospital and the individual members of the Mental Health Commission.

The suit was filed the same day that the Governor's Office announced its investigation of Blanding House.

Bell left the department in January after an internal board of inquiry determined that an unauthorized policy for restraining juveniles was being used at Blanding House.

Commenting on Bradley's report, the department's director of public information, J.P. Neal, said, "We have received the ombudsman's report and we will carefully consider the findings as well as the recommendations of that report."

Neal said improvements and changes began at Blanding House after the internal investigation was completed earlier this year.

Bradley's report also criticized other state agency personnel for not reporting allegations of abuse, and it pointed out the inadequacy of Blanding House as a facility to house aggressive juveniles.

In addition, Bradley said, the Legislature has appropriated $500,000 to start a project aimed at setting up continual care for younger mental patients, rather than relegating them to a specific facility.

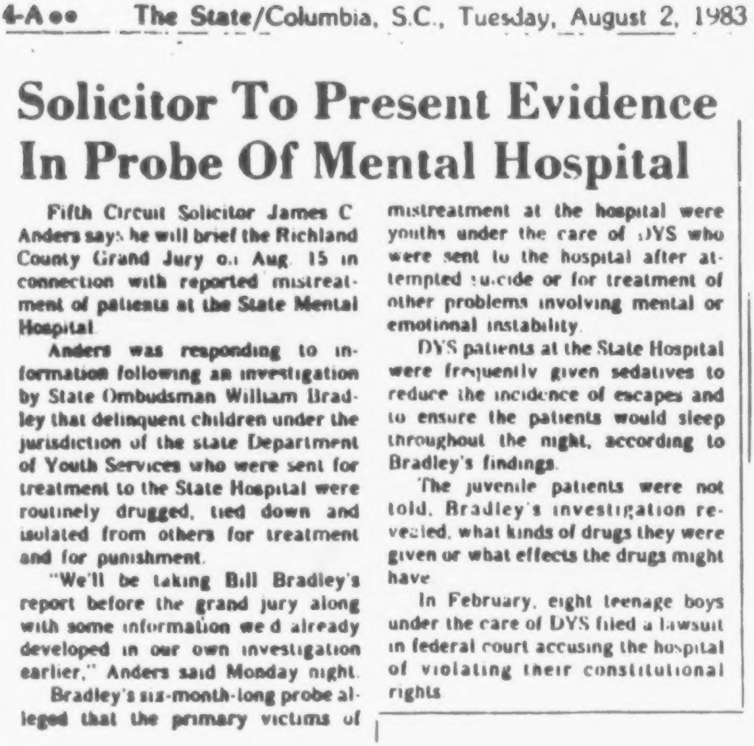
"We feel that if we had such a facility, we would not have had this problem," Bradley said.

Blanding House has a capacity of 43, he said. His report maintained the facility was inadequate as a home for aggressive, emotionally disturbed adolescents.

Much of the problem, Bradley said, stems from a lack of clear guidelines for mental health authorities in treating mentally disturbed youngsters, and a vague definition of mental illness itself.

Authorities from the Department of Mental Health and DYS should work with the governor's and attorney general's offices to outline responsibilities and patients' rights in the adolescent unit, the report recommends.

"We are hoping the two agencies can sit down and come up with a legal opinion of just what mental illness is," Bradley said. "We would hope the General Assembly would take the recommendations of the agencies and come up with changed legislation in this area."



4-A •• The State/Columbia, S.C., Tuesday, August 2, 1983

Solicitor To Present Evidence In Probe Of Mental Hospital

Fifth Circuit Solicitor James C Anders says he will brief the Richland County Grand Jury on Aug. 15 in connection with reported mistreatment of patients at the State Mental Hospital.

Anders was responding to information following an investigation by State Ombudsman William Bradley that delinquent children under the jurisdiction of the state Department of Youth Services who were sent for treatment to the State Hospital were routinely drugged, tied down and isolated from others for treatment and for punishment.

"We'll be taking Bill Bradley's report before the grand jury along with some information we'd already developed in our own investigation earlier," Anders said Monday night.

Bradley's six-month-long probe alleged that the primary victims of mistreatment at the hospital were youths under the care of DYS who were sent to the hospital after attempted suicide or for treatment of other problems involving mental or emotional instability.

DYS patients at the State Hospital were frequently given sedatives to reduce the incidence of escapes and to ensure the patients would sleep throughout the night, according to Bradley's findings.

The juvenile patients were not told, Bradley's investigation revealed, what kinds of drugs they were given or what effects the drugs might have.

In February, eight teenage boys under the care of DYS filed a lawsuit in federal court accusing the hospital of violating their constitutional rights.

The Idaho STATESMAN

Boise, Sunday, June 12, 1983

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Juveniles shackled under reform rules

By JOHN ACCOLA
The Idaho Statesman

ST. ANTHONY — Disruptive youths t Idaho's only state-run reform school ave been placed in isolation cells for up) two weeks and shackled to beds, ences and a pool table as part of a 1978 isciplinary policy still in effect.

Such practices, the school's administrators say, have been carried out in accordance with a student manual that vas drawn up and approved by Idaho lealth and Welfare officials five years go.

The manual — which outlines disciplinary procedures and is being revised — equires staff members to place juveniles in isolation cells for offenses uch as arguing and creating tension mong other residents.

The section of the manual covering 'group management disturbance" requires staff members to punish residents with 14 days in solitary confinement should a juvenile "incite, instigate, trouse or in any way promote tension, inger or trouble with others."

There is no reference in the 30-page locument regarding the specific use of estraints. Use of physical force on residents is allowed, however, "in cases of elf defense . and to protect a student from self-inflicted injury, other persons or property, or to remove disruptive students from group after they have refused to voluntarily."

In a series of interviews, administrators at the Youth Services Center in St. Anthony defended the manual's guidelines as necessary to maintain order and teach youngsters self-control.

Among the institution's 180 male and female charges, 11 to 19 year of age, are youths convicted of assault, armed robbery, auto theft and drug offenses. Juveniles are placed there by court order and have been turned over to the custody of H&W's juvenile-offender rehabilitation program.

"If you do not have control and a certain amount of order, you cannot have rehabilitation," said Kurt Freidenauer, director of the school since 1981.

Freidenauer and the head of YSC's behavior program, Richard E. Kendell, said the disciplinary tactics used by staff members are recognized "behavior control" techniques that are carefully supervised by the school's psychologists.

"Under no circumstances would we do anything that could be considered physically injurious to a student," said Freidenauer.

The school's two top administrators said most staff members, beginning last November, have "voluntarily refrained" from following many of the H&W guidelines. Isolation cells now are used only as a last resort when a resident is in danger of physically hurting himself or others, they said. And last month a memorandum was issued to the staff banning the practice of handcuffing residents to stationary objects.

Although school officials say there is no relation, those changes followed several visits to the YSC campus by a California civil rights attorney.

Elizabeth Jameson of the Youth Law Center in San Francisco began interviewing juveniles at the school last September and last month charged disciplinary practices at the school subjected residents to cruel and unusual punishment.

Although her probe into alleged abuses at the school has triggered an H&W investigation — the second in less than three years — school administrators have denied wrongdoing.

"We did not create an environment designed to be unduly restrictive," said Kendell.

"But you don't just move from point 'X' to point 'Y' overnight. Changes take time .... If you came here six years ago, you'd really have a story," Kendell said.

Citing confidentiality regulations, administrators refused to elaborate about specific incidents involving residents by name.

But for the most part, they confirmed reports from former employees and youths recently discharged from the facility that staff members have disciplined residents with handcuffs, isolation and other restrictive methods as recently as six to nine months ago.

On a visit earlier this month to the YSC campus, a reporter was not allowed to talk to students. However, interviews with 11 former residents, the majority who agreed to talk only if they would not be identified, and several former YSC employees revealed the following stories:

- **Shackling** — As recently as last January, unruly youths were handcuffed to the legs of a pool table, where they were forced to kneel and be spoon-fed by another student.

Several youths reported being handcuffed to a tennis court fence in view of their classmates after they refused to perform exercises.

- **Standing wall** — Residents have been required to stand or sit in silence 10 to 12 hours a day facing a wall with their hands clasped behind their backs for infractions such as talking without permission and having a "negative attitude."

School officials dispute student and former employees' claims that standing and sitting wall sentences in the past have exceeded 30 consecutive days.

"Two weeks would be excessive," Freidenauer said. Residents "on restrict" are provided with five-minute bathroom breaks on the hour, he said.

But Ralph Cherrington, who was fired from his YSC job as a security attendant a year ago last January for poor job performance, said sitting and standing are sometimes used interchangeably and took place "almost every day" up until his 1982 dismissal.

"I know of one kid who stood wall 3½ months, day after day," said Cherrington.

Troy Moss, 16, a Pocatello youth who was released from the school last April, recalled one incident in which he was required to stand for 60 days.

"If you turn your head, talk to someone, or just look out the window, you end up having to spend more time," he said.

(Administrators said they discontinued the standing wall practice last month and now allow residents restricted to their chairs with reading materials, talking periods and longer breaks.)

- **Verbal harassment** — Certain staff members continually harass residents, sometimes resorting to name-calling and threats of physical violence, in an apparent effort to test a student's

Center conditions called not unusual

Conditions described by recently discharged residents from the Youth Services Center in St. Anthony are "incredible, but not unusual," said a Washington, D.C., attorney involved in litigation against several state-run training schools.

"Every time I go into one of those places, you think you've seen it all," said Claudia Wright, a staff attorney for the American Civil Liberties Union.

"It seems every state I've visited has some kind of bizarre punishment,"

Although another civil rights group, the Youth Law Center in San Francisco, has described the eastern Idaho facility as one of the worst in the country, Wright said similar charges have been made in recent years over conditions in other state training schools.

In Florida, Oklahoma and New Hampshire, the ACLU has taken school administrators to court and, in some instances, succeeded in closing the institutions.

In December, the ACLU sued Florida's Department of Health and Rehabilitative Services, charging conditions at the school were exposing children to sexual assaults and other forms of physical abuse.

One of the most objectionable disciplinary practices used by Florida officials, Wright said, is the shackling and hog-tying of children and use of so-called "adjustment" or isolation cells.

In Oklahoma, the ACLU has made its greatest gains in challenging state training school methods of isolation and drug therapy to control students. In the past year, after abuses were exposed in the press, the ACLU succeeded in closing three of Oklahoma's juvenile institutions and negotiating reforms in several others.

Within the next six weeks, Wright said her office plans to file suit against a New Hampshire reformatory for subjecting juvenile offenders to isolation and requiring them to sit morning to night on a wooden bench.

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emotional control.

"We were told quite often to keep up the anxiety level to show what the boys would do under stress," said Bob Perez, a security attendant who resigned from his post in April 1982.

● **Solitary confinement** — Also referred to by staff as "time out" rooms, isolation cells are used for youths who continue to violate the rules or refuse to stand wall. In addition, students who become violent or physically resist staff members have been shackled to their beds and placed in leather leg restraints.

David Widner, an 18-year-old from Weiser who was incarcerated at YSC from August 1981 to November 1982, said he was placed in isolation several times for running away, fighting and refusing to stand wall.

Two other former residents, both of whom were released from YSC last April, said they too were placed in isolation for what they called minor infractions.

To prevent them from lying down in their cells, they said their wrists were handcuffed to the metal railings of bunk beds.

● **Strip searches** — Students visited on campus by parents or relatives are routinely strip-searched. Officials say the searches are necessary to guard against the smuggling of drugs and other contraband.

Former residents of one boys dormitory also described a nightly procedure in which they were required to strip naked in front of staff and other students.

The procedure, which was stopped last winter, took place during night role call and required the youths to run naked down a hallway, jump in the air and stand at attention at the foot of their beds.

Kevin Myasaki, project director of the school's serious juvenile offender program, said the exercise was designed to keep boys from hiding contraband on their body. He said he began to have second thoughts about the procedure last January.

"We felt it was kind of ridiculous in that they (students) didn't have access to things they could hide anyway," Myasaki said.

According to those interviewed, most of the incidents and disciplinary tactics described above took place at YSC's behavior unit, Yellowstone cottage That dormitory, which houses as many as 25 boys, is reserved for the school's serious, and often most difficult to control, juvenile offenders.

In 1981, Yellowstone cottage was the subject of an in-house study by H&W, reportedly after a psychologist was accused of assaulting one of his students.

Results of the study, which was supervised by Kendell and YSC's management director, were never released to the public.

According to John Morgan, director of H&W's community rehabilitation department, there was no finding of resident abuse. However, Morgan, who was appointed director in August 1981 several months after the probe was completed, said the four-person committee investigating the alleged abuses did discover several "procedural inadequacies," including the lack of documentation and specific guidelines for disciplining students.

Although the committee submitted 15 recommendations, Morgan said they were never incorporated into YSC's student policy manual.

A provision in the manual states that the "entire document must be reviewed annually and appropriate updates proposed by a committee appointed by the administrative director with final approval resting with the Board of Health and Welfare."

In September 1982, Morgan said, he received official approval from Les Purce, then director of H&W, to begin revising the manual. Within the next six months, he said he expects the revised document to be completed.

Morgan refused to provide more details of the 1981 study or a list of the committee's recommendations.

"All I can tell you ... is that by no stretch of the imagination are the (disciplinary) rules in the manual being used with the frequency or extent that regulations allow," he said.

School administrators downplayed the students' stories about YSC's disciplinary methods.

"You end up using the only mechanism you have at hand," said Kendell, referring to the school's past use of isolation and standing wall. "We are in the process of changing so that the staff is no longer put in that position.

"The point is, that there is another side to the story ... and I would challenge anyone to come to this institution and show that we have not been making significant progress."

Kendell conceded staff members may have used harsher-than-necessary methods in disciplining students in the past but that employees are now receiving more training in less punitive behavior-control techniques.

"You can imagine what kind of place we would have if we had 45 kids challenging everything a staff member said. You wouldn't have an institution. You'd have chaos."

Friday, May 24, 1985 THE IDAHO STATESMAN, Boise

Expert calls youth center unsanitary

St. Anthony facility inspected in '84

By MARILYN HAUK ESSEX
The Associated Press

A 1984 inspection of the Youth Services Center at St. Anthony revealed unsanitary kitchen facilities, poor ventilation in the living areas and bare electrical wires, a health consultant said Thursday.

The pasteurization plant at the center — where milk is processed for use in the YSC kitchen — was so unsanitary during the inspection that conditions could have led to an outbreak of disease such as salmonella, said Sam Hoover, an environmental health consultant from Texas.

Hoover was hired by San Francisco Youth Law Center attorneys who filed a class-action lawsuit against the state Health and Welfare Department over alleged abuse and neglect at the St. Anthony facility.

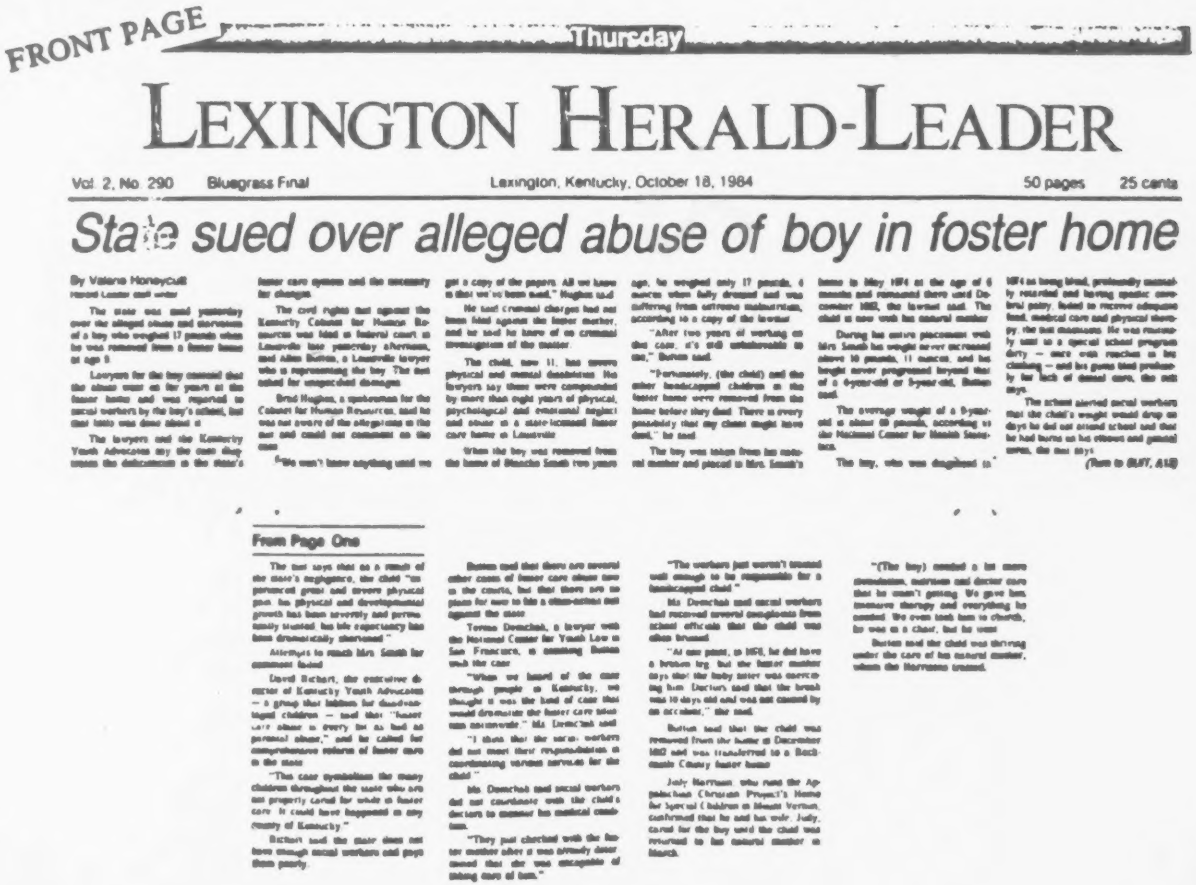
The lawsuit was filed on behalf of former, current and future students at the facility and seeks a ruling from U.S. District Judge Ray McNichols that the constitutional rights of youths at the center have been violated. The suit also asks that McNichols mandate that such abuses be prohibited in the future.

Department officials have said there have been problems at the facility at the past, but the state contends those problems have been resolved.

Hoover testified in the fourth day of trial proceedings that he inspected the center in March 1984, accompanied by Youth Law Center attorney David Lambert, who took photographs.

Food-preparation equipment did not meet health standards, Hoover said. Dirt covered equipment, pots and pans, and food was stored on floors that had not been cleaned, he said.

Hoover said dishwashing equipment was not set at the proper temperature for sterilization, and pots and pans weren't sanitized. "In concert, these conditions did represent a very real potential for food poisoning."



FRONT PAGE

Thursday

LEXINGTON HERALD-LEADER

Vol. 2, No. 290 Bluegrass Final Lexington, Kentucky, October 18, 1984 50 pages 25 cents

State sued over alleged abuse of boy in foster home

By Valerie Honeycutt

(Turn to SUIT, A12)

From Page One

THE IDAHO STATESMAN, Boise — Saturday, June 1, 1985

Cruel punishment at YSC finished, federal judge says

By DEBBY ABE
The Idaho Statesman

A federal judge ruled Friday that "cruel and unusual" punishments once existed at the state Youth Services Center, but he refused to issue an order barring the practices because he said they have been discontinued.

"It's clear to me the practices relative to sitting chair, standing wall and use of restraints constituted cruel and unusual punishment and lack of due process," U.S. District Judge Ray McNichols said Friday at the conclusion of a nine-day trial in Boise.

But he added that based on the evidence, state officials had eliminated those disciplinary methods and he did not believe the officials would resume them. Therefore, he said, he was unwilling to impose a court order.

"I've had a natural resistance to interference through federal courts whenever it can be avoided," he said.

Both sides welcomed McNichols' decision, which gave each party some of what it wanted.

Grinning widely, state Health and Welfare Director Rose Bowman, said that she wished McNichols had dismissed the case against the state. But she said she was ecstatic the judge had not ordered a monitor to watch the center's operation or imposed an order governing its operation.

"It'll allow us to progress the way we want to. It really does help us with the quality of the program," said Bowman, a defendant in the suit. "We'll do our own monitoring of how it (the center program) is going on. We'll bring in outside consultants."

Youth Law Center attorney Elizabeth Jameson, one of four attorneys suing the state, called the decision "a major victory for children."

"I consider this to be a very important statement that the department can't abuse children under their control," she said.

Teresa Demchak, an attorney with the National Center for Youth Law, said McNichols' declaration that the worst disciplinary practices were unconstitutional would make the state unlikely to reinstate them.

See YSC, Back Page

YSC —

Continued from Page 1A

"At least now, kids who'll go up there will never have to go through what we went through," said Jody D., one of the youths who brought the class-action lawsuit. The 17-year-old had testified during the trial that he once was bound in leather restraints for 20½ hours after trying to kill himself, and that he once spent 70 consecutive days in solitary confinement.

Lawyers from the Youth Services Center and the National Center for Youth Law, both of San Francisco, and Idaho Legal Aid Services had sued the state Health and Welfare Department and department officials on behalf of residents at the eastern Idaho institution for errant youths.

The two-week trial included testimony about disciplinary practices; educational programs; the positive peer culture program, in which children help one another with problems; possible sanitation violations at the center's kitchen and dairy; and medical and psychiatric treatment at the center.

The legal consortiums had sought a "declaratory judgment" that past rehabilitation conditions and disciplinary practices at the center violated children's rights, and an order prohibiting the state from reinstituting those practices.

Jameson had urged McNichols in a closing argument Friday to adopt one of three options to ensure that the state did not return to its past practices. The options included allowing a monitor to visit the center six days during the next two years to speak with children and staff; requiring the state to submit reports to youth-advocacy attorneys and McNichols and permitting the lawyers to visit the center; or issuing a detailed injunction addressing each of the attorneys' concerns.

She also asked McNichols to order 11 improvements guaranteeing children communication with parents; continuance of medical and psychiatric services; adherence to fire safety ordinances; and prohibiting the center from calling children by numbers.

McNichols said the parties bringing the suit had "clearly prevailed" and were entitled to attorney fees from the state.

The cost of that was uncertain Friday. Elizabeth Jameson said she had no idea how much the two years of investigation and legal work on the case would cost. But just paying for five consultants to visit the eastern Idaho institution cost about $20,000, she said.

10F Florida News The Miami Herald Friday, December 24, 1982

Youths abused at 3 training schools, suit charges

By STEPHEN K. DOIG
Herald Capital Bureau

TALLAHASSEE — A national group of prison reform advocates filed a federal class-action lawsuit Thursday charging that delinquent youths are abused, overcrowded and inadequately supervised at Florida's three juvenile training schools.

The suit asks the U.S. District Court here for an injunction ordering the Department of Health and Rehabilitative Services to stop punishing children by shackling and to develop a plan to improve conditions.

The suit was filed on behalf of about 1,000 youths, some as young as 10 years old, placed at the Dozier School for Boys in Marianna, the Florida School For Boys in Okeechobee and the co-educational McPherson School in Ocala. Attorneys for the American Civil Liberties Union, the Youth Law Center in San Francisco and Southern Legal Counsel brought the suit.

"The criminal-justice system for kids in this state is out of control," said David Fogel, a University of Illinois criminologist who has served as an expert witness in dozens of prison-reform cases around the country.

Last year, Fogel was part of a similar suit against Oklahoma's juvenile training schools, where a long history of abuses recently was detailed on network television.

"Unfortunately, Florida reminds me of Oklahoma," Fogel said. "Florida's training schools are universally understaffed and overcrowded, and that leads to restraints."

Fogel said that in recent visits to Dozier and Okeechobee youths told him that despite official HRS prohibitions, staff members still punished disobedience by "hogtying" — chaining hands and legs behind the back so the child cannot stand.

Also, the suit charged, all three schools use small isolation cells — called "adjustment units" — containing only a concrete platform, a sink and an open toilet.

HRS officials declined detailed comment, saying they had not had a chance to study the accusations.

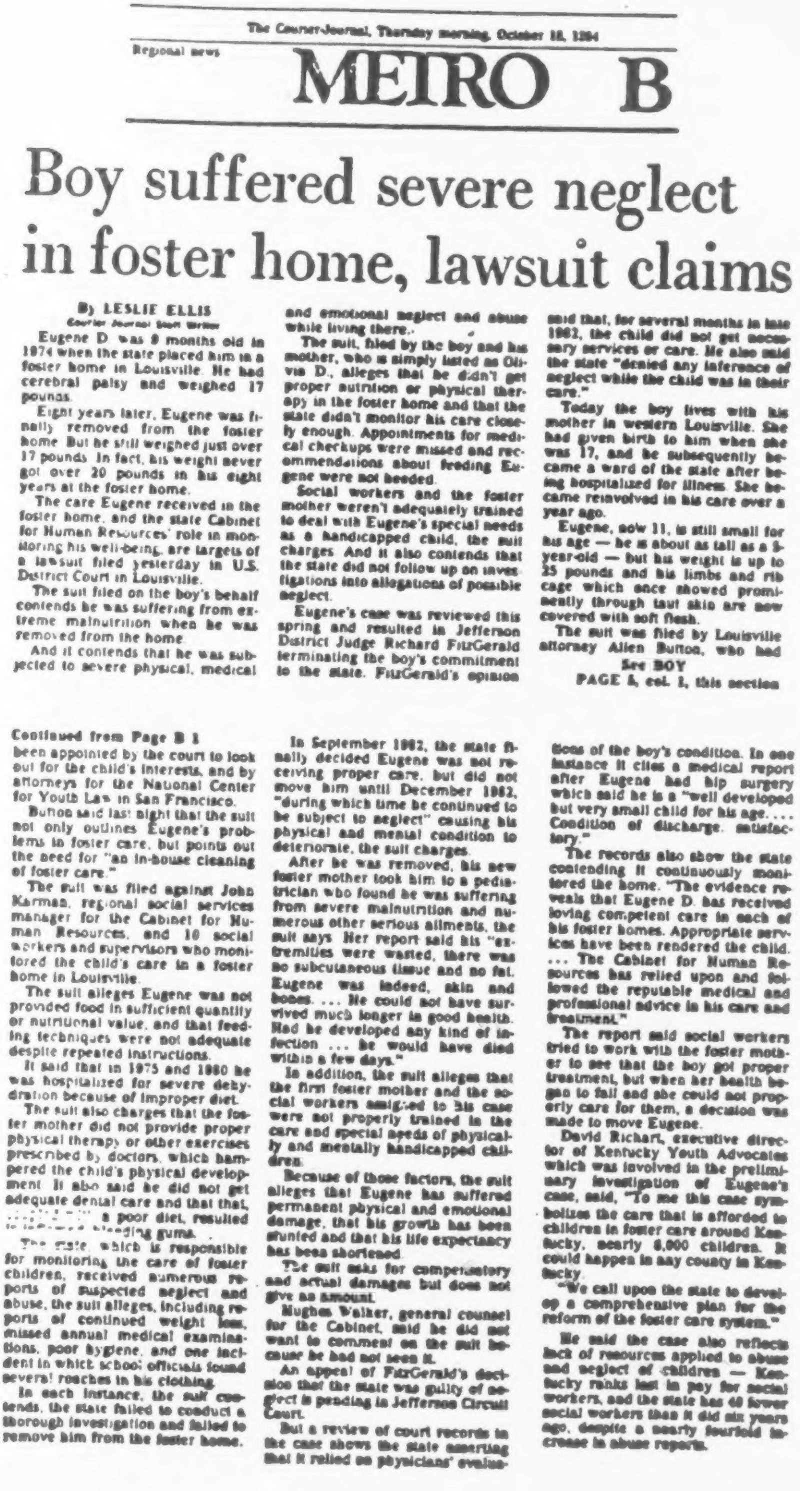
"The department already has declared its opposition to hogtying," said HRS assistant general counsel Judy Fendrich. "We'll look into all these allegations and see if there's any basis for them."

Fogel blamed much of the problem on inadequate staff and supervision at the schools. He noted that school dormitory units, which generally hold twice as many children as they were designed to hold, often are managed by a single "houseparent" who works 16-hour days for as little as $8,600 a year.

"Under those conditions, it's not surprising they resort to restraints," said Fogel.

Fogel had no estimate of the cost to increase the schools' staffing levels and improve the living conditions, but he suggested that better management and increased use of alternatives to incarceration could accomplish major reform at low cost.

Other accusations in the suit include beatings, sexual assaults, lack of personal privacy, bed shortages, bug-infested dormitories, inadequate clothing and linen, poor meals, untrained staff, inadequate medical care and psychological counseling, prolonged solitary confinement, lack of educational and vocational programs, and denial of due process.



The Courier-Journal, Thursday morning, October 18, 1984
Regional news
METRO B

Boy suffered severe neglect in foster home, lawsuit claims

By LESLIE ELLIS
Courier-Journal Staff Writer

Eugene D. was 9 months old in 1974 when the state placed him in a foster home in Louisville. He had cerebral palsy and weighed 17 pounds.

Eight years later, Eugene was finally removed from the foster home. But he still weighed just over 17 pounds. In fact, his weight never got over 20 pounds in his eight years at the foster home.

The care Eugene received in the foster home, and the state Cabinet for Human Resources' role in monitoring his well-being, are targets of a lawsuit filed yesterday in U.S. District Court in Louisville.

The suit filed on the boy's behalf contends he was suffering from extreme malnutrition when he was removed from the home.

And it contends that he was subjected to severe physical, medical and emotional neglect and abuse while living there.

The suit, filed by the boy and his mother, who is simply listed as Olivia D., alleges that he didn't get proper nutrition or physical therapy in the foster home and that the state didn't monitor his care closely enough. Appointments for medical checkups were missed and recommendations about feeding Eugene were not heeded.

Social workers and the foster mother weren't adequately trained to deal with Eugene's special needs as a handicapped child, the suit charges. And it also contends that the state did not follow up on investigations into allegations of possible neglect.

Eugene's case was reviewed this spring and resulted in Jefferson District Judge Richard FitzGerald terminating the boy's commitment to the state. FitzGerald's opinion said that, for several months in late 1982, the child did not get necessary services or care. He also said the state "denied any inference of neglect while the child was in their care."

Today the boy lives with his mother in western Louisville. She had given birth to him when she was 17, and he subsequently became a ward of the state after being hospitalized for illness. She became reinvolved in his care over a year ago.

Eugene, now 11, is still small for his age — he is about as tall as a 5-year-old — but his weight is up to 25 pounds and his limbs and rib cage which once showed prominently through taut skin are now covered with soft flesh.

The suit was filed by Louisville attorney Allen Button, who had

See BOY
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been appointed by the court to look out for the child's interests, and by attorneys for the National Center for Youth Law in San Francisco.

Button said last night that the suit not only outlines Eugene's problems in foster care, but points out the need for "an in-house cleaning of foster care."

The suit was filed against John Karman, regional social services manager for the Cabinet for Human Resources, and 10 social workers and supervisors who monitored the child's care in a foster home in Louisville.

The suit alleges Eugene was not provided food in sufficient quantity or nutritional value, and that feeding techniques were not adequate despite repeated instructions.

It said that in 1975 and 1980 he was hospitalized for severe dehydration because of improper diet.

The suit also charges that the foster mother did not provide proper physical therapy or other exercises prescribed by doctors, which hampered the child's physical development. It also said he did not get adequate dental care and that that, [illegible] a poor diet, resulted in [illegible] bleeding gums.

The state, which is responsible for monitoring the care of foster children, received numerous reports of suspected neglect and abuse, the suit alleges, including reports of continued weight loss, missed annual medical examinations, poor hygiene, and one incident in which school officials found several roaches in his clothing.

In each instance, the suit contends, the state failed to conduct a thorough investigation and failed to remove him from the foster home.

In September 1982, the state finally decided Eugene was not receiving proper care, but did not move him until December 1982, "during which time he continued to be subject to neglect" causing his physical and mental condition to deteriorate, the suit charges.

After he was removed, his new foster mother took him to a pediatrician who found he was suffering from severe malnutrition and numerous other serious ailments, the suit says. Her report said his "extremities were wasted, there was no subcutaneous tissue and no fat. Eugene was indeed, skin and bones. ... He could not have survived much longer in good health. Had he developed any kind of infection ... he would have died within a few days."

In addition, the suit alleges that the first foster mother and the social workers assigned to his case were not properly trained in the care and special needs of physically and mentally handicapped children.

Because of those factors, the suit alleges that Eugene has suffered permanent physical and emotional damage, that his growth has been stunted and that his life expectancy has been shortened.

The suit asks for compensatory and actual damages but does not give an amount.

Hughes Walker, general counsel for the Cabinet, said he did not want to comment on the suit because he had not seen it.

An appeal of FitzGerald's decision that the state was guilty of neglect is pending in Jefferson Circuit Court.

But a review of court records in the case shows the state asserting that it relied on physicians' evaluations of the boy's condition. In one instance it cites a medical report after Eugene had hip surgery which said he is a "well developed but very small child for his age. ... Condition of discharge, satisfactory."

The records also show the state contending it continuously monitored the home. "The evidence reveals that Eugene D. has received loving competent care in each of his foster homes. Appropriate services have been rendered the child. ... The Cabinet for Human Resources has relied upon and followed the reputable medical and professional advice in his care and treatment."

The report said social workers tried to work with the foster mother to see that the boy got proper treatment, but when her health began to fail and she could not properly care for them, a decision was made to move Eugene.

David Richart, executive director of Kentucky Youth Advocates which was involved in the preliminary investigation of Eugene's case, said, "To me this case symbolizes the care that is afforded to children in foster care around Kentucky, nearly 6,000 children. It could happen in any county in Kentucky.

"We call upon the state to develop a comprehensive plan for the reform of the foster care system."

He said the case also reflects lack of resources applied to abuse and neglect of children — Kentucky ranks last in pay for social workers, and the state has 40 fewer social workers than it did six years ago, despite a nearly fourfold increase in abuse reports.

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Shocking photo of a child supports case for reforms

THE CONDITION of a child so bony and emaciated that he looks like the victim of a Nazi concentration camp should have told social workers in the Kentucky Cabinet for Human Resources, their supervisers and higher-level bureaucrats that something was wrong. But, regrettably, it didn't.

The case of Eugene D. came to public attention this week, with filing in Louisville of a federal suit on his behalf. He's a cerebral palsy victim who weighed a meager 17 pounds at 9 months, when the state put him in a foster home, and was about the samé weight eight years later. The lawsuit says he suffered from extreme malnutrition. If so, it's just the latest and most disturbing example of state failure to make sure children entrusted to its care don't suffer even more harm.

A state spokesman talks of "vigorous" investigations. But no one who watches these things expects anything substantial to result. The state's child-care system continues to be so badly underfinanced and understaffed, and is so encumbered by bureaucratic self-protectionism and disincentives to act forcefully, that only a sweeping overhaul will suffice. Such an overhaul, to have any real chance of success, probably would have to be personally demanded by Governor Collins.

Child-abuse cases

Problems with the state's foster care program, which currently has about 6,000 children, aren't new, of course. But what makes the current situation unusual is the rash of child-abuse cases that have been coming to light. Like the allegations of sexual abuse of teenage girls in Bullitt and Henry County foster homes, what distinguishes the Eugene case is the evident inability of the state to care properly for the children in its custody.

It happens like this: The state takes a child from his home because of parental abuse or neglect. The child is put in a foster home pending return to his own family, when the situation there improves, or adoption, if all else fails. At all stages of the process, the state must ensure that new abuses don't simply replace the old ones that caused the problem in the first place.

Eugene D., pictured in August 1982 at age 9 and 17 pounds. He's now reunited with his mother and has gained in size and weight.

But new abuses are occurring, and experts cite several reasons. One is inadequate state funding, a situation arising from the fact that the problem ordinarily is invisible to most citizens. Everyone is now aware of the need for education reform, and the courts are making it impossible for legislatures to avoid prison improvements. But almost nobody, except for social workers and such vocal but underfinanced groups as Kentucky Youth Advocates, goes to bat for child-care improvements.

Worse, critics say the state has created an unresponsive bureaucracy in which the people at the bottom — the social workers — face practically insurmountable difficulty in safeguarding their clients. Case loads are too big, and superiors aren't receptive to complaints of problems they have ignored or failed to solve. And, on the other hand, the social workers themselves are so badly paid and overworked, and often seem to be so poorly trained, that they are handicapped in fulfilling their duties. The starting pay for such workers in Kentucky is $11,244 yearly, reportedly the lowest in the nation.

So what must be done? If reforms are to be real and lasting, perhaps the only workable approach would be for Governor Collins to start by appointing an independent, impartial and high-level group of citizens to evaluate the state's system of social services for children. This would involve a sweeping review of administrative procedures and, of course, of what it would cost to run an adequate system. Such a study would become just another dust-gatherer unless it had prestigious leadership. Someone of the stature of former Governor Bert Combs, for instance, with his strong interest in caring for the state's neglected, would make an ideal chairman.

If there's any doubt about Kentucky's neglect, just picture Eugene, his ribs bulging through his skin. There are plenty of other demands on the state's treasury, but surely few can have a higher priority. Governor Collins can't do it alone. But perhaps more than anyone else, she can mobilize public support for what is needed.

Chairman MILLER. Mark, Thank you.

I would like to recognize the presence of Congresswoman Nancy Johnson, from Connecticut.

Diane?

STATEMENT OF DIANE SHUST, SENIOR SUPERVISING ATTORNEY, JUVENILE SERVICES PROGRAM, THE PUBLIC DEFENDER SERVICE, WASHINGTON, DC

Ms. SHUST. Mr. Chairman——

Chairman MILLER. If we can get you to move the microphone over your way.

Ms. SHUST. Thank you.

My name is Diane Shust, and I am the senior attorney in charge of the Juvenile Services Program for the Public Defender Service for the District of Columbia. In that capacity, I represent children who are incarcerated at the city's three juvenile facilities.

I act as a legal ombudsman on behalf of the children. I handle their legal as well as their institutional problems.

In addition to my supervisory position, I also maintain a reduced case load, so I also represent children in the delinquency system. I have been working in the juvenile justice system for approximately 14 years.

Several things have remained constant. One is that regardless of the system that the child is in, whether it is the mental health system, the neglect system, or the delinquency system, you are actually talking about the same children.

Which system the child ends up in depends upon chance in most cases, and upon what point, and the age of the child, that he comes to the attention of the system.

The second point is that no matter what system the child is in, children are not receiving appropriate services. This is evidenced by the fact that so many children graduate from the neglect and delinquency systems and go into the adult criminal justice systems.

I think we as a society have to decide whether to prioritize our services on children while they are young in the hopes that we can prevent them from becoming incarcerated adults.

I had wished to bring with me today a client so that he could tell you his story of his involvement in the delinquency system, but the confidentiality nature of the juvenile court prevented that. I believe that this confidentiality protects only the people within the system who are not providing services to children as they should.

It protects them from public scrutiny. It clearly does not protect the children for whom it is designed.

In 1985, my agency, together with the ACLU National Prison Project, filed a law suit on behalf of the children who were incarcerated at the city's three detention facilities. This suit was settled this summer by a consent decree. I would like to briefly read to you a few lines from our press release:

> For the first time, children in these institutions will receive an education equivalent to that which they would receive in the public schools, including vocational and special education. Defendants have agreed to remedy the physical abuses suffered by children and the excessive practice of putting children in handcuffs and leg irons, and to restraining them to pieces of furniture.

> The children will be assured of proper medical treatment and a safe and clean environment, free of dangerous fire hazards and of unsanitary food. Children will no longer have to wait locked in their rooms to use toilet facilities but rather will have access to toilets without depending on the staff to let them out of their rooms.
>
> Moreover, defendants will provide incarcerated children with a full range of rehabilitative and mental health services to address the extreme deprivations they have suffered.

That we needed a law suit brought against the city to correct these situations is outrageous. This is the 1980's; these conditions existed 100 years ago. These are the conditions that the juvenile justice system was designed to reform. Clearly, we are failing.

We do terrible things to children in this country under the guise of providing them with care and treatment. We do this in institutions. For example, if a parent were to lock a child in his room for 21 days, allowing him out for 2 hours a day, we would consider that child abuse. Yet this is a common practice in institutions, it is considered normal, it is accepted and in many cases it is even laudable.

I think that part of the problem with children in institutions is that the people who might keep the institutions accountable, don't live in them, and they don't utilize; I am talking about the public. We know that we send children to places like this but we really don't want to know what goes on in there, we really don't care about what happens.

In my testimony I highlight several problems that I have encountered in representing children in the system. I would like to perhaps describe several cases that I have encountered that have exemplified this.

Many systems try to dump children in one system or the other. I have found that the neglect system and the mental health system try to dump children in the delinquency system, perhaps, in the hopes that there may be more services available to children as a delinquent than as a neglected child.

I, on the other hand, as a defense attorney, often try to get my children involved in the mental health and neglect systems because I believe more services may be available to them.

I have a 15½-year-old client, named Kevin. Kevin's mother is an alcoholic; she has disappeared from the home.

No one knows where she has been for the past 1½ years. Because my client is 15½, and because he has one juvenile adjudication, I have been told by members of the neglect system not to even waste my time trying to open a case jacket on him; that he is too old; that because he has a juvenile adjudication they won't want to bother with him.

Now, this is an example of a system that is trying to shirk its responsibilities and just trying to dump my client in the delinquency system.

Conversely, I had a client who had grown up in the neglect system. He started out as a small child in foster homes, then foster home options run out, and they put older children in group homes. He picked up a delinquency adjudication. We were fortunate to get him sent to a special school which was located in Pennsylvania, over the objection of both the Government and myself, the judge closed his neglect jacket.

What that meant was that when my client returned to the District there was no other space to put him except at Oak Hill, which is a maximum security facility. Had his neglect jacket remained open, the neglect system would have been responsible for providing him with services until age 21. My client was 18 years old at the time. He was legally too old to get the Government to reopen his jacket. Because of this my client remained at Oak Hill for approximately 6 months until a space could be found for him.

To me the real tragedy of the juvenile justice system, and the systems in general, is that we have horror stories, terrible things happen to children all the time. But the real horror story is the lack of services, the fact that we as advocates have to struggle so hard and fight over the very few resources that are there now.

We have a lack of effective programs. The programs that do work are too few. The waiting lists are too long.

I had one child who remained incarcerated in a secure facility for approximately 8 months waiting for space in a foster home to open up for him. At the time he was 12 years old.

We have a lack of focus on a lack of preventive services to families and to children in this city. It seems that we only want to provide children services or help once they actually come into the system. But I think there are many people out there who are struggling and trying to work hard.

They don't know what to do. They have a child who may be truant from school; he is 17 years old; he can't read.

What can they do; where can they go for help?

It seems that there is always a lack of resources available to people, and I would like to see more of a family-focused effort geared toward people and helping them with their problems before they enter the system.

The one thing that strikes me is that the children that I deal with in this city are all poor, and they are, basically, all minority children. Clearly, it is not just that poor children commit crimes in the city; it is that the system treats them differently because people who are wealthier have access to more services such as family counseling. They are able to send their children to drug treatment programs.

In the city we only opened two residential drug treatment programs in the past few months. We have a terrible PCP problem; 60 beds cannot possibly address the needs of the children in this city.

We have many children who have emotional problems, and multiple problems, yet we have no therapeutic treatment center here designed to deal with that. So we are forced to send children sometimes thousands of miles away to schools in Florida, in Texas, where they can't be close to their families, where very little monitoring is done to make sure that the children are appropriately placed, and that they are receiving the services they are supposed to be getting. Clearly it would be more cost-effective for communities to develop their own residential treatment facilities.

The problems that I have just discussed with you are not merely local problems, local to D.C.; they are national problems and they are facing every community in this country.

Thank you for the opportunity to be heard.

[Prepared statement of Diane Shust follows:]

PREPARED STATEMENT OF DIANE SHUST, JUVENILE SERVICES PROGRAM, PUBLIC DEFENDER SERVICE, FOR THE DISTRICT OF COLUMBIA

Mr. Chairman and members of the Committee, my name is Diane Shust and I am the Senior Supervisory Attorney in charge of the Juvenile Services Program for the Public Defender Service for the District of Columbia. I wish to thank you for the opportunity to appear. I wished to bring a client with me today to tell you his story but the confidential nature of the juvenile justice system made that impossible. It is my opinion that this confidentiality actually protects all participants in the system from public scrutiny, instead of protecting my client from public view. I believe that we would have better accountability if the juvenile justice system were open to the public as is the criminal justice system.

The Juvenile Services Program (JSP) was established in 1982 by the Public Defender Service pursuant to authorization by the District of Columbia Council to provide assistance to children who are detained or committed at the District's three juvenile institutions: the Receiving Home for Children, located in Northeast D.C., and the Oak Hill Youth Center and the Oak Hill Annex (formerly known as Cedar Knoll) located in Laurel, Maryland. JSP was established as "an independent legal office" to address the legal and institutional problems of incarcerated children. I, and the legal interns who assist me, act as legal ombudsmen on behalf of and advocates for the children incarcerated at these facilities. During FY '84, we handled over 1,280 cases for children incarcerated at these detention facilities. Because of my supervisory position, I maintain a reduced caseload and have represented individual children in delinquency proceedings. Thus, I am very familiar with the workings of the juvenile justice system, not only in my "ombudsman" capacity through JSP but also a practicing attorney.

I have always considered the juvenile justice system a misnomer; the juvenile "injustice" system would be more accurate. It is a system in which children are seldom treated fairly, the goal of "rehabilitation" rarely is realized, and children leave the system often worse than upon entering because they have received no services or inadequate services. I have seen few children "helped" and more actually harmed by the system. Once in the system, most children never leave. That most "graduate" to the adult criminal justice system evidences the failure of the juvenile justice system to provide effective services and programs to address the special needs of children. As a society, we must prioritize and fund programs for children in order to prevent children from becoming incarcerated adults. Our prisons are full of persons who started their "careers" in either the neglect or juvenile delinquency system.

In March 1985, my agency and the American Civil Liberties Union National Prison Project filed a class action suit against the District of Columbia on behalf of all the children incarcerated at the District's three juvenile detention facilities. The suit alleged that the facilities lack appropriate education services, special education, vocational training services, medical, psychological and psychiatric services, as well as sufficient staffing patterns, staff qualifications and training. In July 1986, the defendants agreed to a settlement of all issues which will achieve the goals set forth by the suit when it was first filed. The real tragedy is that such a law suit was needed at all before the City would provide what we consider the basic services our clients are entitled to under local and federal law, and the types of services one would expect incarcerated children to receive if they are ever to be "rehabilitated."

I would now like to highlight the most critical problems I have encountered in the juvenile justice system. I wish to stress to the Committee that these problems are not limited only to the District of Columbia. They are national problems confronting every jurisdiction in every state.

(1) **There is an appalling lack of the proper assessment of children's needs and the provision of appropriate services designated to meet those needs.**

Children are often placed in programs without first determining what type of program would be best for that child. Instead of designing programs which will meet the needs of the children, children are often placed in programs for which they are inappropriate. Should a child be properly assessed, the recommended services are seldom provided. One child I know was recommended for a therapeutic placement at age 11; he was finally placed in such a program at age 15, after he had accumulated many more charges.

(2) **There is a serious lack of coordination among the systems designed to serve children.**

Most children in the delinquency system have multiple problems, such as educational, vocational, medical, and mental health problems. These multiple needs are often not met because no one is willing to assume responsibility for their coordination. Children consistently "fall through the cracks" because of this, which only increases their problems. Coordinated services or children should be the rule. I have found it to be the rare exception.

(3) **We lack effective programs to meet the needs of children. The programs which do work are too few in number.**

For example, we have a very serious PCP problem in this city, yet we have only two residential drug treatment programs for adolescents with a combined capacity of 50 beds. What's especially shocking is tha these programs opened in June and August of this year. Two programs cannot possibly begin to meet the numbers of children who are in desperate need of such services.

We have no residential treatment facility in the City. Approximately 200 children from the neglect, delinquency, and educational systems are sent to programs throughout the country, including Texas, Minnesota, Florida and Massachusetts. Often, little is known of the facilities and little monitoring has been conducted of these out-of-state placements in the past. When children are so far from home, it is difficult to ensure that they are appropriately placed and receiving the services they need and are supposedly getting. Family reunification and re-integrations into Washington are especially difficult in such situations. These programs cost between $20,000 and $90,000 per child per year. Surely we can develop appropriate treatment programs for such children in D.C. which would better serve our children, and even be cost-effective.

The delinquency system has only 11 foster care beds which it utilizes for younger children. The waiting list for foster care placement is very long. Older children can certainly benefit from such placements. Eleven is certainly an inadequate number and should be increased. Foster care is a better option and is more cost-effective than institutional care for most children.

Many of my clients are truly homeless. These children often do more time at Oak Hill than their counterparts simply because there is nowhere to place them. We have only one independent living program available to delinquents. We need more independent living programs, as well as group homes and shelter houses to avoid incarcerating children in institutions for lack of appropriate placements.

(4) **We lack preventive services and family focused services.**

Some states have a category of cases called "FINS" - Families in Need of Services. FINS receive preventive services such as family counseling, in an attempt to keep the child from entering the delinquency or neglect system. Such programs and services should be made available to persons on request. I often receive requests for information from parents who know they need help with their children but don't know where to go for that help -- if the help is available at all. We need to focus more on keeping children with their families. In many cases, that will require increasing and developing services for them.

(5) **It has been estimated that at least 50%-75% of the children in the delinquency system are actually neglected children who were never identified by the neglect system.**

Who can say how many of these children may not have entered the delinquency system if they had received the services of the neglect system? When delinquent children are identified as being appropriate for the neglect system, that system is reluctant to accept them. I was recently told that I shouldn't waste my time referring my 15-1/2 year old homeless client with only one delinquency adjudication for unlawful entry (a misdemeanor) because he had one charge and he was too old. While the Office of Corporation Counsel which handles delinquency and abuse/neglect cases is sensitive to this issue and is very willing to make a neglect referral, other components of the system are totally unresponsive to these children. The irony of this situation is that we are really taking about the same children! The neglect system should not be allowed to be selective of its clients when children are in need of services only the neglect system can provide. Their bias against accepting "older children" is most unfair, especially since the law gives them jurisdiction over a child through age 18.

(6) **Other systems "dump" children in the delinquency system failing to recognize that children may need the services of several systems.**

One client had been in the neglect system for his entire life. He had lived with his mother only 3 months during 18 years. Upon his placement at an out-of-state residential school, his neglect case was closed over the objection of both I and the Government. Upon his return to Washington, the only place available to him was Oak Hill. Because his neglect case had been closed, the independent living programs and group home programs of the neglect system were unavailable to him. The waiting list for group home placement through the delinquency system was long because we have only 3 group homes for delinquent boys, and one of the three was reserved for younger children. My client was placed at Oak Hill because there was no other place to put him.

(7) **Our educational system is unresponsive to children's needs.**

We need programs designed to deal with the high rate of truancy, and children who may be in need of special services but not special education. Many children are not properly identified as in need of special education, and children who may be identified as special education are not receiving appropriate services. There have been problems in sharing information about students who attended public school but then are incarcerated at Oak Hill. Because of this communication problem between the two systems, children who had Individual Educational Programs (IEPs) prepared for them while they were in the community did not receive appropriate services while they were incarcerated because the institutions never received any educational information about the child from the school system.

(8) **Race and socio-economic status determine who enter and stay in the juvenile system system.**

It is not only poor minority children who commit crimes in the District. Yet the children who comprise the juvenile justice system are overwhelmingly poor and black, while their white and more affluent counterparts are diverted from the system. I wish the system were as willing to divert my first offender shoplifter from Anacostia as it is the child from the Upper Northwest section of the City.

Mr. Chairman, that concludes my testimony. I will be happy to answer any questions the Committee might have.

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JUVENILE SERVICES PROGRAM

The Juvenile Services Program (JSP) was established by the Public Defender Service for the District of Columbia in 1982, pursuant to authorization by the District of Columbia Council, to provide assistance to children who are detained or committed at the District of Columbia Children's Center in Laurel, Maryland, and the Receiving Home for Children in Northeast Washington. The Children's Center is comprised of Cedar Knoll School, a minimum security facility, and Oak Hill Youth Center, a maximum security facility. Both facilities house only males. The Receiving Home for Children serves as both a temporary facility providing short term care for children arrested and detained prior to their initial court appearances, runaway children being returned to their native states through the Interstate Compacts, and, since April 2, 1985, as a secure detention facility for 30 detained youths, including females. The programs and services at the Receiving Home are targeted to serve children with multiple problems rather than youths who have been placed into secure detention based upon the severity of their alleged offenses. JSP has offices at each facility, and the services provided by JSP are available to approximately 300 children at any given time. The project is supervised by Diane Shust.

Each semester approximately ten second- and third-year law students from American University Washington College of Law, the Antioch School of Law, Catholic University School of Law, George Washington University National Center and Georgetown University Law Center work directly with children at the Children's Center and the Receiving Home under the supervision of the project attorney. JSP is designed to meet the special needs of incarcerated children. The program's activities include:

(1) facilitating communication between children and their attorneys;

(2) providing assistance to attorneys with legal research and writing;

(3) providing information to attorneys about institutional policies and procedures;

(4) legal counseling;

(5) monitoring the progress of children's cases in the Superior Court's Juvenile Branch;

(6) monitoring court orders regarding placement and treatment programs;

(7) representation at institutional disciplinary hearings and aftercare revocation hearings;

(8) assistance regarding institutional policies and procedures;

(9) conducting "street law" classes which explain the components of the legal system; and

(10) conducting orientation programs for newly detained and committed children.

JSP also functions as a resource center for attorneys and the public by providing information about juvenile justice and child advocacy, local and national programs and services for children, and consultation on trial preparation and dispositional alternatives. During the past year, the project attorney addressed high school students, students at area universities and law schools, various community groups, and Metropolitan Police Youth Division officers, and provided training for employees of the Youth Services Administration and Childrens Hospital. She participates in interagency meetings and conferences concerning children's issues, and is a member of the Oak Hill Scholarship Club Board of Directors, the Ad Hoc Coalition on Juvenile Justice, and the Ad Hoc Committee on Residential Placement.

Chairman MILLER. Thank you.
Diane?

STATEMENT OF DIANE WEINROTH, MEMBER, STEERING COMMITTEE, CHILD ADVOCACY AND PROTECTION COMMITTEE, THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA, WASHINGTON, DC

Ms. WEINROTH. Thank you, Mr. Chairman, Mrs. Johnson.

I am Diane Weinroth, an attorney in the District of Columbia and I specialize in child abuse and neglect. I am a member of the steering committee of the Child Advocacy and Protection Committee of the Bar Association of the District of Columbia.

I would like to pick up a little on a theme that Diane Shust started to address. The committee has heard from Mark Soler, and will probably hear all day, the kinds of tragedies that unquestionably happen on a daily basis to children who are in State care. It is atrocious, there just is no other word for it.

There is another kind of tragedy that is taking place on a daily basis that is a little less dramatic, but it really isn't less dramatic when you have to deal with it on a daily basis. When you have to deal with the kids who come ring your doorbell at 3 a.m., after having walked halfway across the city, or who are calling you from a phone booth at 2 a.m., or who are coming to your door on a Sunday morning because there is not enough food to eat in the group home and the counselors won't get any, or who are calling you for all kinds of other similar reasons.

It is no less compelling, the kind of tragedy that I am talking about, because of the tremendous emotional cost to children and families and the tremendous loss of human potential. that is the kind of tragedy that results simply from the total lack of services and resources to address the needs of these children, the needs of normal children, the needs of special needs children, and the tremendous dehumanization and brutalization that results.

Children may—they may—get three square meals and roof over their head, but they get very little else. I would just like to run down briefly, sort of a panorama of the lack of things that are available to kids, that ought to be available to kids. Then give you a couple of quick examples from my own case load of the kinds of things that I am talking about, the kinds of things that we have to deal with on a daily basis when we are trying to help these kids.

In the District of Columbia there is a tremendous shortage of foster homes; there is no recruitment for foster homes; there isn't ample training of foster homes. Younger and younger children are going into group home situations—we will get to the condition of group homes in a second—brothers and sisters are separated, it is just an appalling situation.

I spend so much time simply trying to get a child placed, somewhere, anywhere. They will be sitting in the child protective services office and there won't be a placement for them.

There are no group homes—I am not sure I want to encourage more group homes because group homes are really a problem. There are rarely standards, adequate standards for group homes.

The staff in group homes are uncredentialed and untrained. The physical condition of group homes is often deplorable.

One of my favorite group homes right now is located—for neglected boys—is located one block from Hanover Place, which is a notorious drug center in the District of Columbia. There is no monitoring of group homes.

As far as the social services agencies are concerned, the caseloads are tremendous; the social workers aren't trained; they don't monitor the placements; children are warehoused in St. Elizabeths Hospital, who have no business being there, because there simply aren't any other placements for them. They are warehoused in other kinds of residential placements as well.

There are no services. As the committee has heard and will hear again, it takes me years, literally years, sometimes to get therapy for children and families.

There is no drug treatment. I had a client who was abusing drugs at the age of 14 and 15, probably earlier; she finally came around to the point where she was willing to enter some kind of drug treatment program. I was on the phone for 2 days straight trying to find something, anything for this child, and I couldn't do it.

I don't know what has become of her at this point. The social services agency requested that her neglect case be closed because they couldn't do anything else for her, had no programs for her; and her case was closed. I wasn't able to prevent that.

There are no adequate educational services. The children are treated as discards.

Children in foster care—these are neglected children that the District is supposed to be helping—get $30 a month for clothes, period. It doesn't matter if they came into foster care as infants and stay until age 21, that is all they get.

They get $20 to $25 a month for personal care and allowance. That is it. That is absolutely it; nothing else.

You have to keep running into court; you have to try to get court orders for things—I have had many, many kids that I have to go to court for just to try to get clothing on their backs.

There are no effective job training and placement programs. No vocational education. No assistance for kids who are coming out of foster care—and they are getting kicked out of foster care at earlier and earlier ages, because the agencies don't want to service them. There are no family oriented, preventive services to keep children from coming into State care and no reunification services for children who come into State care.

As my written testimony indicates, not only is this appalling in terms of the emotional costs to the children and families, it is ridiculous because the cost of keeping children in State care is enormous.

The cost of providing services to children in family settings, or with their natural families, is a fraction of the cost, generally speaking, that it takes to keep a child in the care of the State.

Let me just give you a few other snapshots from my own case load of the kind of problems that we encounter like this on a daily basis. There is an institutional facility for infants and small children, again, these are neglected infants and small children in the

District of Columbia. Children sit there for months and years—no exaggeration—because they are simply not placed anywhere else.

They either aren't any placements or the social services' people are too lethargic to do the paperwork to get them placed. One example that comes to mind, and it is by no means the worst case, is a baby that was there for 8 months, and the effect on that child was so severe, he became so withdrawn, that he was thought to be mentally retarded, when he was not. Of course, that makes placing that child even more difficult; it is a classic sort of vicious circle. And that is by no means the worst case.

I represent another child who came into foster care as a neglected child at age 9. He was placed in a group home, an outrageous thing to do at that age. As one of my clients has said, when you are in a group home you are on your own.

He, at the age of 13, when I became his attorney, he was functionally illiterate. He was being bounced from placement to placement. He wasn't being given any therapy.

The strengths that he had, which were artistic and manual—which were obviously going to give him his ticket out of the system at some point—nothing along those lines was being provided for him; no classes, no courses, no nothing. Now he is at a residential placement and very shortly he will be released from there.

There is going to be no place for that youngster in the District of Columbia. He won't get any educational services. He will be dumped. I don't know where he will be dumped—probably in a group home, unless I can prevent it.

Another youngster in a similar situation had a residential placement practically close down around her ears. She was literally the last child left there, and they still couldn't come up with another placement for her.

They wanted to dump her in a group home. It was only under threat of contempt of court that anything else was finally achieved for her.

To make a very long story short, through the advocacy efforts of her attorney, she is now residing with her grandmother and she is attending the Duke Ellington High School for the Performing Arts; this is a child that was going to be discarded, that essentially was discarded and was going to be discarded through the rest of her teenage years.

A youngster that I represented who was about to be kicked out of foster care at age 19 or 20, a graduate of high school, wanted to go to college, but there was no help for him from the social services system. His social worker told the judge that her discharge plan for him was to tell him how to get on general public assistance and Medicaid, the Medicaid being particularly important because he was a diabetic.

The irony, of course, is that I don't think he would have been eligible for either public assistance or Medicaid. But here is a bright youngster, with a tremendous amount of potential and that is the plan that social services has for him.

I sat him down, gave him some phone numbers, did some xeroxing for him, and the happy result is that with that very minimal effort, and that very minimal support, he has been working for 2 years at one of the most prominent law firms in the District of Columbia in a clerical capacity.

The last story I will mention just by way of example is—well, the last two—is a client of mine who was arrested for solicitation or prostitution, at age 12 or 13. No one knows where her mother is at this point—no one knows where her father is—she was detained in the local juvenile detention facility; she was pregnant at age 13. I could not get her any counseling until I got a court order.

It took that court order; and even with the court order, it still took a tremendous amount of struggling to get her counseling. She made her decision with regard to pregnancy; she had an abortion.

She was returned to the detention facility. She was put in a week's room isolation immediately after that because she had an argument with a counselor.

That is the kind of treatment that these children are subjected to on a daily basis and there is just no excuse for it.

I guess one of my other favorite success stories, and it happens all the time, is one that illustrates what can happen if you do put a little effort into things.

Two clients were in foster care who were both teenage mothers. The social services agency did everything possible to take their children away from them. It gave them no help whatsoever when they were coming out of foster care.

But to make a long story short, those children are now doing well primarily because of the advocacy efforts of their attorneys; their children are not in foster care.

Both those young mothers are employed, again, through no thanks to the social services system, and their children are doing fine.

So, children who are treated as discards, should not be treated as discards; they need not be treated as discards. They can lead productive and happy lives if the social services system will simply provide what would inevitably be cost effective services for these children to allow them to have a happy and successful adulthood.

Thank you.

[The prepared statement of Diane Weinroth follows:]

PREPARED STATEMENT OF DIANE WEINROTH, ATTORNEY IN THE DISTRICT OF COLUMBIA, SPECIALIZING IN CHILD ABUSE AND NEGLECT AND A MEMBER OF THE STEERING COMMITTEE OF THE CHILD ADVOCACY AND PROTECTION COMMITTEE OF THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

My name is Diane Weinroth. I am an attorney in the District of Columbia specializing in child abuse and neglect and a member of the steering committee of the Child Advocacy and Protection Committee of the Bar Association of the District of Columbia. I am grateful to the Chairman and the Committee for the opportunity to speak today about my experiences with children in state care.

During the course of this hearing, the Committee will hear testimony about tragedies involving children in state care. These kinds of horror stories occur all too frequently. There is also another kind of tragedy involving children in state care -- one that may seem less dramatic, but which is equally compelling to anyone who has seen the terrible toll it takes on children and the tremendous loss of human potential that results. The story I am talking about is the constant, grinding inattention to and mistreatment of children in state care by an insensitive, lethargic, and often overburdened social services bureaucracy that has little or nothing to offer the children that it is responsible for.

The result is a dehumanization and brutalization of children that the system is supposed to be helping. The children may get three meals a day and a roof over their heads (and I emphasize the word "may" because, for example, I have had a youngster walk over a mile from his group home to my apartment on a Sunday morning to ask me to buy breakfast food for him and his fellow residents because there was none and the counselors had refused to buy any.) But they often get little else other than barest minimum from a social services system whose very language, much less its treatment of children, is noteworthy for a clinical detachment and coldness that conveys all too clearly to the children what the system thinks of them. A child is "committed" to the custody of the state; a child is "placed" with a parent or in a foster home where the child's "adjustment" is good or bad. A child will be told time and again that he or she is handicapped, limited, deficient, rejected, or otherwise problematic or abnormal; the child will hear again and again, in the most public of circumstances, that his or her parents are monsters who are incapable of or unwilling to care for their own children and that, really, nobody wants them. An emotionally vulnerable 13 year old client of mine was told for the first time, in a public setting, that his mother had abandoned him voluntarily some five years before.

You do not need to be an expert in child psychology to predict what the results will be when children hear the constant drumbeat of such messages of despair. And those messages are reinforced by the chronic shortage of services, resources and placements for these children which would give them the opportunity for stable and secure homes, a decent education or job training, a sense of self-worth, and an opportunity to grow up to be independent of any "systems."

Let me present a brief and by no means exhaustive survey of the systemic deficiencies that my colleagues and I encounter on a daily basis -- and a nightly basis, too, when a 12 year old calls you from a phone booth at 2 a.m., or a youngster walks halfway across the city to ring your doorbell at 3 in the morning to have someone to talk to about being unhappy. As I review these problems, I will be illustrating them with examples from my own caseload -- examples which are regrettably all too typical.

There is a chronic shortage of placements for children who are wards of the District: foster homes, group homes, residential placements, semi-supervised or semi-independent programs, crisis placements and respite placements. Some of the results:

-- infants and small children remain at a frequently overpopulated institutional facility for months and sometimes years, resulting in profound and potentially irreversible developmental delays and related emotional problems

-- children are placed inappropriately in placements where their needs, especially special emotional and physical needs, cannot be met and their problems will be exacerbated

-- young children are placed with elderly foster parents

-- brothers and sisters are separated

-- children are shifted from placement to placement and from school to school

-- children are placed at a younger and younger age in group homes rather than in family settings

-- children are terminated from foster care and thrown out on their own at younger ages

-- St. Elizabeths Hospital children's and adolescent in-patient units, which are meant to accommodate about 16 children each for very short term (3 week) evaluations of children with acute mental health problems, are used to warehouse children of all kinds because the social services system has no other place to put them. (I would note that until a recent lawsuit, SEH provided virtually no school for children there. The lack of school was a typical example of the kind of inter-agency bickering that plagues children in state care: D.C. Public Schools and SEH each said that the other was responsible for providing the educational services -- so nobody provided them.)

-- Residential placements are also used to warehouse children who could live in family settings or group homes that are more fully integrated into the community.

There is virtually no recruitment for foster homes in D.C. A May, 1985 government memo on the subject states: "After two years of attempting to establish an Adoption and Foster Care Recruitment Committee, the Committee was appointed November 19, 1984 during the observance of National Adoption Week." The memo goes on to state that the committee was still in the process of developing (not implementing) recruitment plans, and conceds that "the /government social services/ agency has not had an active recruitment effort for quite sometime." In the approximately five years I have been working with abuse and neglect cases, I have seen only one public service announcement anywhere, and that only recently, late at night on television.

Training and monitoring of foster homes is inadequate, resulting in chronic problems of ill-treatment of children in foster care.

There is an equally acute shortage of group homes, and the monitoring problem is severe. The physical condition of many group homes is deplorable, and their location outrageous (one group home for neglected boys is located one block from Hanover Place, a notorious drug center). There are no standards for the operation and staffing of group homes; the staff are uncredentialed and untrained and there is high staff turnover. (These problems are prevalent in residential placements as well). Drug use and teenage pregnancy are serious problems in group homes. As one of my clients put it, when you're in a group home, you're on your own.

The public social services agency is itself understaffed. Caseworkers are poorly trained, with caseloads per social worker in excess of the agency's own guidelines and those of the Child Welfare League of America. Cases are frequently transferred so that there may be little continuity in planning and contact, and gaps in time when no one is responsible for or involved in the case. (These gaps often come at the most critical times, when children first come into foster care or when they are moved from one placement to another, so that social services involvement is least intense when it ought to be most intense.)

Because of the shortage of resources, social services agencies fight to avoid being saddled with the responsibility of providing services to children. Older children are not brought into the neglect system because they will be hard to place and services. The neglect system tries to dump children in the juvenile and mental retardation systems, which have no resources either. The neglect system will tell you that the mental health system is responsible for providing all mental health-related services (therapy, therapeutic foster homes and group homes, etc.) while the mental health system says that the neglect system is responsible for caring for its own wards.

There is a serious shortage of family-oriented preventive services and reunification services. A tremendous amount of money is spent on keeping children and families apart (upwards of $8,200 a year to maintain a child in a foster home; upwards of $20,000 for a group home placement, and anywhere from $20,000 to $90,000 for a residential placement) and very little for keeping the families together, so that the cost of keeping a child in state care must be calculated not only in terms of the destructive emotional consequences to the child but in terms of straight dollars and cents cost-effectiveness as well. Other serious deficiencies in family-focused services include a critical lack of affordable housing (often the only thing that is keeping a child in foster care), day care, and opportunities for visiting between parents and children.

There is an across-the-board shortage of services for families and children generally. There is a terrible lack of the whole spectrum of therapeutic services that children (and families) are inevitably going to need when children come into state care: crisis services, on-going therapy and in-home therapy. I have had to wait as long as a year to get therapy services in place for clients (notwithstanding court orders, which are routinely ignored by social services agencies). Parenting skills classes are often required of parents prior to the return of children to their care, and yet the social services agency does not run or contract for such classes.

The importance of educational and vocational services to children in state care cannot be overemphasized — and neither can the lack of such services. The problems include: a fundamental lack of educational programs (special education, alternative programs, and supplemental and remedial assistance);

no financial resources to provide supplemental services when the school system cannot or will not provide services; no tutors; delays of sometimes months in getting children enrolled in school. It is almost impossible to get the school system to produce in a timely fashion, as required by law, the educational plan that is required before a child may be declared eligible for special education services or before a child will be considered for residential placement. Put simply, it is difficult to get appropriate educational services for a child who needs remedial help; it is equally difficult to get, for a child in state care, help for a child who is doing well and could do even better. Assistance for education or training beyond high school is out of the question.

The lack of educational and job-training and placement assistance is particularly acute in connection with children -- young people -- on the verge of termination from foster care. In D.C., the District's custody of a neglected child cannot extend beyond age 21 as a matter of law. As a matter of policy, the District seeks to terminate children from foster care at age 18 or 19. Children, often after having grown up in foster care as a result of inadequate planning, are faced with being terminated from foster care with the clothes on their back and essentially nothing else. Even the most motivated 18 year old will be hard pressed to make a successful transition to independence in the face of no place to live, no transitional financial assistance whatsoever, a minimum wage job if that, the prospect of having to quit school in order to be able to work, and comparable problems.

Two other areas which bear mentioning but need not be belabored here as they are currently the focus of much attention (if not activity) are drug treatment and teenage pregnancy -- there is no exception here to the general rule of an utter lack of programs.

The shortage of programs does not stop at organized programs in areas of clear-cut concern such as education. There is in addition a pervasive lack of "provision" for children in state care. For example, no matter how long a child in in foster care, the clothing allotment for that child is approximately $30 per month and the personal care/allowance allotment is $25 dollars a month. Period. Exacting a supplemental, one-time clothing allowance of, say, $150 dollars from the state is a tortuous process, frequently leading nowhere and requiring the child's attorney to seek a court order for a supplemental clothing allowance for a 17 year old who had been in foster care since infancy. There is no money for transportation, for activities, for lessons, for extra-curricular programs, for birthday presents, for graduation pictures, for class trips, for hobbies, for supplies — that is, for any of the attributes of a normal childhood. Children in state care are discards, and they know it. They know it when they are told that if Medicaid doesn't cover it, they can't get medical treatment; they know it when they don't see a social worker for months at a time; when their possessions are stolen in group homes; when their lawyer has to take them to school because nobody can get the school bus to come.

Children cannot speak for themselves. If we do not speak for them, no one will. And if no one does, we can be assured that we will reap what we have sown. I thank the Committee for the opportunity to speak for these children.

Chairman MILLER. Thank you.
Patricia.

STATEMENT OF PATRICIA HANGES, VOLUNTEER YOUTH ADVOCATE, FRANCIS HOUSE, BALTIMORE, MD.

Ms. HANGES. You have to be getting short-circuited by now, after hearing all these stories.

I think probably I totally agree, and have seen everything these people have talked about. I think my testimony is a little different in that I am totally a volunteer. I accept no money at all for what I do.

I believe in these children, and I believe there is hope. I don't want you people, after you hear all these things, to think that there isn't hope, because just in the last 3 years I have seen, through a lot of advocacy efforts in the State of Maryland, individual children that have been saved by people getting involved.

I think that is kind of what this country is all about—not big Federal grants, and not big State money, because, I am sorry, coming from where I come from, these are God's children. I don't think the State has any business even putting their hands on them.

My name is Pat Hanges; I am a Franciscan lay volunteer. I am currently assigned to a juvenile institution in the State of Maryland, that is typical of what these three beautiful people have described. I work in the capacity of advocate for the children.

I go out and I give approximately 15 speeches a month raising money to improve the childrens conditions in this institution and to educate the community.

Prior to joining the Franciscan lay community—so you decide whether you think I have the credibility to speak or not—I was a police major. We set up a very, I think, a good youth division in Baltimore County Police Department..

The prime purpose of our youth division, it was very non-traditional in the field of policing, it was not just to arrest kids, but to keep them out of the juvenile justice system—because I feel once a child or a family gets meshed in this system, they never come out the same, and they never come out the better for it.

We had to overcome a lot of problems in setting up this unit. The reason I am so hopeful, in Baltimore County in the State of Maryland, we were able to educate the community and to keep kids out of places like Montrose and other State facilities.

So when many bureaucrats say, oh, the community wants these kids locked up; I don't really believe that is true. I think the community has not been educated to keeping these kids in community based programs.

If they knew that it will cost $42,000 to warehouse a kid that could be treated so much better in the community, for one-eighth of that money, I think the community, even the ones that don't' like children—and a lot of people in America don't, I am convinced of that—even they care what it costs to lock kids up, care about their money. I think if the bureaucrats would only wise up and start telling people what it costs, that maybe they might be doing it for the wrong reason, but they would do it.

The amount of Federal money that is wasted in some of these grants really gets to me, too, but that is another story I will come back with at another time.

What I would like to share with you today are my personal experiences working daily in the cottages, directly with the children that are incarcerated at Montrose. I really hope I can effectively convey to you—because I almost didn't come here today, I much rather work with the children than talk—I would like to convey to you their story. It is a story of hopelessness; and it is a story of pain.

But most of all it is a plea for your help to make the States straighten out the way they are treating these children. For in spite of all they have been through, and in spite of all we have done to these kids, they are probably the most beautiful children that I will ever be privileged to work with.

I am sorry, I cry every time I talk about them, and I am supposed to be a tough ex-cop.

They all respond to genuine love, everyone of them. I have been there 3½ years and I have worked with hundreds of children, and everyone of them responds to love, that is universal.

They don't deserve that kind of institution, and particularly for the two kids that have died by hanging within the last three years, they are children that have been robbed of their childhood.

I want to tell you all something; they are my heart. I will keep working with them as long as the Lord leaves me here on Earth.

I want to tell you that I am overwhelmed by their needs, constantly frustrated by a seemingly unmovable bureaucratic system. A system that is not only costly in money, but in opinion, rips families apart.

It shreds them of their very basic American rights to be treated with love and with dignity. And every child born in the United States should have that stamped on their birth certificate.

Our laws state in Maryland, that we are to treat these children in the least restrictive environment and still protect the community. Yet we lock up hundreds of children in Maryland every year, unnecessarily.

Reports have been made, since I came to Montrose and they have been made public, enough reports to wallpaper the walls of this place. And maybe we should, because maybe somebody would read them; I don't think anybody has read them yet.

All of these reports say the same thing: A lot of these kids don't have to be locked up; it is not cost-effective; we should be looking into closing these large institutions, those not dangerous or making them therapeutic models and we are not doing it. We haven't even began to do it.

I was sent to Montrose 3 years ago under the authority of a State grant written to study institutional abuses. I think the grant was very poorly written. It came under the Department of Human Resources, and they had a very hard time recruiting volunteers.

I can understand why after being in the institution almost 4 years. I was the only one who stayed—and I think if it hadn't been for my police background, I probably would have walked out the door after the first week.

I quite honestly must say, though, that the superintendent of the school gave me a wide latitude. He let me go anyplace I wanted to go and never tried to hide anything from me. Of course, as a result of all of the things that I found out, the poor guy moved into another position; I always felt a little twinge of guilt about that as he was a good man given nothing to work with.

When I arrived at Montrose, evidence of neglect were everywhere. They were overcrowded, understaffed—the same thing you have heard over, and over again, and you will hear it 100 more times—badly in need of repair. It seemed to me, that virtually everybody in the institution had just given up. They had been neglected in the budget process for years.

Let me describe for you my first assignment at Sanford Cottage—I am now in a cottage with the real little ones—but these boys are 13, 14, and 15. Sanford needed everything, staff, furniture, recreational equipment; it had nothing. The only thing Sanford had was a super-abundance of kids.

Each crowded little cell was filled with two children. Many of the mattresses smelled of urine, because a lot of these children are bedwetters and then they become even more frequent bedwetters after they are locked in those kinds of places.

They all had two badly-in-need-of-repair beds in one little cell. Overcrowding escalated after the Department of Juvenile Services froze the purchase of care money, to pay off some kind of deficit. I never found out what the deficit was, but I knew children were being deprived of placements, and they were just languishing in the institutions.

Conditions in Sanford, and throughout the institution—and remember, I was in here every day, so nobody can tell me this didn't exist, I saw it with my own eyes—became what I consider inhumane. After many complaints to the people in charge—because now I am Franciscan and not a cop, I am supposed to be a little gentler—so it took me a long time to try to work through these levels of bureaucracy; nothing was done.

In fact, the problem escalated, children were sleeping on mattresses in halls, mattresses in the gymnasium. These are troubled kids; these are not hard-core delinquents at Montrose, I want to make that clear.

The report I sent you bears up what I am saying; I am not some bleeding heart; it is in that report.

Six children were crammed into a small area in Sanford cottage; in addition to all this crowding, the air in there was so stale and so horrible. The boys were coming to me reporting sexual abuse, and alleged sexual advances were increasing. Along with attempted suicides.

I also went to social services—after I went through all the levels of bureaucracy and tried to move everybody gently as I could—I went to social services and asked that a neglect report be made against the State of Maryland, because when I was a cop, if parents treated their kids the way our State treated those kids, I would have locked their butts up.

And yet, the State of Maryland, which is a wealthy State, was treating our children in this manner, and under the guise that we were protecting them. Well, if that is protection, buddy, I hope they never protect me like that.

Everyone was sympathetic, and they would say, oh, yes, sure, right, that is horrible; but nothing was done. In desperation I went to our legislatures in Annapolis; and I went to our Lieutenant Governor; and, finally, I went to the news media and we got a little action.

All the children were locked in their cottages. When I first came into Sanford, I observed children punished by putting them in their cells, what staff would call early bed, in some cases as early as 6:30 at night. If you are emotionally disturbed and you are in one of those rooms all that time, you are going to go berserk; and they did.

When the children became frustrated and acted out, as they call it, they were sent to isolation, for very minor offenses.

Early beds are no longer allowed; but that is difficult to enforce. Unless you have someone, like myself, that is not an employee, that doesn't have any allegiance to the State, that is just going in there for the kids, to watch it, they can still put those kids in those rooms.

I observed staff ratio of 2 to 38. If you read that report, and find out what kind of kids we have got at Montrose, we have got sick kids there. Two staff people, that only need a GED—our State lowered the standard for child-care workers a few years ago, when it should have raised it, it lowered it. We have had two staff to 38 kids, and because of low morale, and call-in, sometimes 1 to 38; and no one, no one, can handle that. We do have some good staff.

The noise levels in those cottages are deafening. It is at those times I am glad that I live in a community. I can go home and there is no noise.

It is difficult to recruit good people; and you can understand why. For these key position all that is required, like I said, is a GED. We need trained child-care workers, but we are not getting them. At least 1-to-10 staff ratio.

Whether they were intentional or not, everything was done to break the spirit of these children. Some examples, they are told when they can come out their rooms to go to the bathroom. Not allowed to speak when they eat.

On many occasions I have seen staff—and, of course, if I was dealing with 30 to 38 kids for an 8-hour period, I guess I don't know what I would do, so I try not to be too judgmental—but making children stand there for long periods of time when the kid was hopping because he had to go to the bathroom.

Also, the staff would call "sit down" and "stand up." I said, what in the heck does that mean; sit down, stand up, when they were going to the bathroom? It simply meant they even controlled that.

The child was told when he could sit down and go to the bathroom—I work with all boys. I filed complaints on that; that procedure is no longer allowed, and I don't observe it being done.

Absolutely no privacy. The children are made to ask for their toilet paper—if you can imagine being 11 and 12, and 13 and going through this. Toothpaste is put on their toothbrushes; they can't control that. They can't control any aspect of their life in the institution—remember these are not hard-core delinquents.

Children were not allowed at this time to call home. Since then, I have filed a complaint. They are allowed to call home now. This is an important thing because many of these children don't get visitors and that call home means a lot. There is constant verbal abuse and intimidation by some staff, already testified to.

Some of these dehumanizing procedures have been stopped, but they have only been stopped because there were advocates that went into that institution and stayed and filed complaints and spoke out for children that cannot speak out for themselves. News media coverage really helped.

Another problem area identified, and I had great difficulty with, is an area they called a cottage but it was simply old rooms over the administration building. They had approximately 30 children crammed in there.

The only reason that it closed was 1 day a staff tried to restrain a child and seriously dislocated his shoulder. The child went without adequate medical treatment for a couple of days.

When the mother arrived on visiting day, he complained of intense pain. They took him to the hospital and he had to have a very serious operation on his shoulder, because of the neglect Gardner Cottage was closed.

When I went to Williams Cottage the youngsters complained repeatedly of a "pink room." I just thought it was a room that was painted pink—Ms. Guttridge's boy died in that room. This was a year after her boy died, he was 12—13.

One of the little boys I was taking home with me started to cry and said, Ms. Pat, don't take me back, they put me in the pink room; and I see that little boy's ghost.

I said, what in the heck is the "pink room"? I moved over to Williams Cottage and found out what it was.

It was a room where, even after a child had hung himself, could not possibly be supervised, all the way down the end of the hall, smelled of urine and feces so bad that I had to hold my breath when I went into it, in the summer months.

The institution was still putting children in this room. This was a year after the other child had died.

After many complaints, we did get that room stopped from being used as a detention room. But I feel if I hadn't gone there, they would still use that room. Because they did not think it was wrong.

You see, the whole philosophy of institutions is control and punishment; it is not rehabilitation.

Also, it should be noted that Ms. Guttridge wanted her son. She visited him every week. She constantly called—that is the lady you are going to hear from next—she tried to help out in the institution by bringing other things for children that never got visitors.

The point I want to make is we could spend approximately $40,000-some to put her child in that institution, he was not a hardcore delinquent. He could have been treated in the community for a fraction of that cost, because we have a mother here to think she was going to get help, and had she known what she was letting her son go into, he would never have gone in there.

We had a second child—and I carry his picture with me all the time, every time I get discouraged because I am broke and have no money, and I wonder how I am going to make it through another day, I look at Troy Chapman—Troy was 13 years old, and he died this year.

His twin brother was also in Montrose. He was in the cottage next to ours and he also tried to commit suicide. This mother also visited and begged for help, but didn't get any.

I talked to Troy almost daily while he was at Montrose, he was one of the boys in our cottage. He was very unhappy, and he was sent to isolation almost every day he was there. He was 13 years old, and never had a happy day.

He would say, Ms. Pat, please get me help, I know I am sick, I know I need help, I know they keep telling me I am bad, but I need help. Troy never got that help.

A counselor and I took him to a regional institute—which gets three times the money Montrose gets, another State facility, allegedly set up to help these children who have these kind of problems—they turned Troy down. They said he was not acceptable for their program.

And, of course, Montrose has to take anybody, so he came back to us. The day he was killed, I was sitting in the counselor's office waiting for Troy to come home from school—I call it home, back to us from the school—and he never came back.

He assaulted a teacher; he went to isolation. He said, if you put me in that cell I will hang myself.

They put him in the cell—and in the cell were screens that the staff and I had asked them to take off for about 6 months—and he looped a noose through that screen, and at 13 years old he hung in that isolation cell with people all around, but he didn't get any help, till it was too late.

Before Troy Chapman died I held him in my arms at the hospital. I was there with his mother when they took the support system off of him.

I want to tell you something; he didn't have to die.

We spent approximately $60,000 in the State of Maryland to incarcerate Troy and his brother for about a 6-month period, and we couldn't begin to work with that mother, who was a single parent, and she did not have a lot of money. As a result, Troy is dead.

Even after Troy's death, several incidents occurred that impressed upon me the need for monitoring these institutions, and maybe at a Federal level, as the first speaker said.

A 13 year old was sent to our cottage from a mental health facility. Now why a mental health facility would send a kid to us anyhow, is unbelievable, but let me tell you what happened.

It was obvious to me—and I am only a lay person—this child was extremely emotionally disturbed. Repeated attempts were made to get help for this 13-year-old boy, and we couldn't get any help, and Montrose couldn't handle him.

Each day he was in isolation. But on one particular day—this was after a child had hung himself, Troy, and her child had hung himself, too—we took him to isolation because it took three of us to hold him down. He bit through his lip. He tried to bang his head on the floor to kill himself, because he didn't want to live. He put his arms through a bookcase and slashed up and down, both arms.

We took him over to the nurse—the cottage manager and I, who really cares about these kids—and we said, don't put him in an isolation cell. By then it was 8 o'clock—you all don't know me, but I am very determined, I was bound that kid was not going to go back in that cottage—so I said, you go one way, I will go the other way, we are going to call every politician and every lawyer we know, we are getting that kid out of here tonight.

The last thing I said and the cottage manager—after two boys had killed themselves, bear in mind—don't put that child in an isolation cell, he is suicidal—as if they couldn't see that, but unfortunately, some people don't see what we see—we were gone no more than 25 minutes. We pulled up on the parking lot with a court order to get the kid out of there, and we heard this bang, bang, bang.

We ran into the isolation unit, and here was this 13-year-old child, after he had been through everything I had described to you, holding on to the isolation cell, locked in, banging his head repeatedly against that window and screen until it was bloodied and black and blue.

I wonder how long he would have beaten his head had I not come back with a cottage manager.

Because of the University of Maryland of Law clinical people, who went to court with that child, that child is in a mental health facility. But I still can't help but wonder what would have happened to him.

Two months ago an 11-year-old child from our cottage was taken to isolation. He too, said, I will kill myself.

One of our security people—our people have little training, they need training desperately—said to him, go ahead, that will be one less little boy. And we almost did have one less little boy, because he tried it.

I could go on. You have already heard enough out of me and everybody about what goes on in these institutions, but I think you have to know how helpless these kids are.

I don't know if Federal—you guys, you ladies, and gentlemen, excuse me—can order our State to do something. You see, I wish I was the President of the United States, because I will tell you, their butts would get in gear quick; but I am not.

If Montrose remains open it should be totally, programmatically changed.

You should order the States to make these places therapeutic models, because at least if they are therapeutic models they cannot overcrowd them, and they cannot become what they are today. It must be properly funded; we have never gotten the funds we need to work with these children—although I can tell you some stories about how some of the money you gave us was spent it was not done as productively as possible.

Cottage level staff positions must be upgraded, ongoing training given—you are going to hear this same thing over and over—strong advocacy should be mandatory. If you are going to give our State any money you ought to say, I am not giving you any bucks, buddy, until you put strong advocates in those institutions.

I will tell you before you put them in, don't let just Federal grant people—let people like me help you write the training program, because you need guerrilla training to stay in there.

Parental involvement, if you had parental involvement a lot of kids would still be alive today, including her son. We have legal reviews in the State of Maryland in that institution for these kids, and nobody represents them, outside the system except me, and I can't run around to 10 cottages, I would like to, but I can't.

The parents are not involved in a legal review that shapes their kid's life for the whole time they are going to be here on earth, and a parent is not involved in that—I am going to file a complaint against that next week—but that should be mandatory.

I don't understand it, in America we were so family oriented, or used to be more family oriented—how we can get into these crazy situations, where we just whip these kids out of the home, throw them in a nuthouse like that and don't involve parents. You may ask, as I do, how did we get into this mess?

I say everyday I get up—I live in a community—so I say, hey, God, how did we get into this mess? How could this happen in the United States we are so rich, we have it all? How can we treat kids like this?

You know what it is, it is much easier to remove these little characters and put them in places like Montrose and continue to violate their rights, because they are hidden from the community.

Chairman MILLER. We are going to have to go vote and then return for the rest of your testimony.

Ms. HANGES. I hope I didn't do that to you.

Chairman MILLER. You haven't driven us from the room. I suspect your testimony is going to bring most of the members back to this room.

We will be gone about 10 minutes; we will be right back.

Ms. HANGES. You want me to wait, OK. I hope it is on funding State funds for institutions.

[Brief recess.]

Chairman MILLER. The committee will come to order.

Patricia, if you want to sum up your testimony then well go ahead.

Ms. HANGES. I was almost wrapped up when you guys had to leave—gentlemen and ladies, excuse me; I am so used to working with boys.

OK, we will proceed here.

The hard/cold facts that we have had to face at Montrose is that the majority of our kids are neglected, abused, and throwaways. These are youngsters who no one wants.

The majority of our population are not hard-core delinquents. They are kids, what we call—I love the label—CINS, Children in Need of Supervision. There is a law in our State that says we are not to incarcerate these kids. But how they get around that is they violate their probation.

I had one kid that was in there 6 months, little 11-year-old, 6 months, he never had a review, didn't even know who his aftercare worker was. He was in there for not going to school and violation of probation, for 6 months.

After several reports and studies—and we have had, as I told you before, all kinds of studies—the best one, Mary Anna Burt, who is sitting behind me did—they have been all completed, and there have been all kinds of really good recommendations. As a result, I have to say, I have to give it, we are really trying harder than I have ever seen try at Montrose, or in the State of Maryland.

The challenge now is to develop models where these broken, little, wounded people—and that is what they are—and I just wish you could see them and hug them—see, then you would really go to bat for them, that is what it takes. They can become loving, well-adjusted adults, but not in a place like that.

Just to finish up; when I was praying this morning, I was trying to think how I could explain to you the mixture of children. In many instances we care for kids that nobody else wants to care for at Montrose; and we don't care for them very well.

But if somebody else cared, they would not be in my face. If somebody was willing to have them in homes, they would be in homes. If Aunt Jane would come and take them out of our institution tomorrow, we could give them to Aunt Jane. But there aren't any Aunt Janes to take our kids, the majority—this was an exception.

If we had to develop therapeutic homes, they would be in them, but we haven't. And if they hadn't messed up in a couple of foster homes, because they were so badly wounded the foster parents didn't know how to handle them, we wouldn't have them. These kids don't come easy to care for. So let's take a look at caring.

The fact is these kids are pretty broken. We have just got to put them together.

Troy Chapman—the one that died—this is his picture. I would like you to see their faces, because they are not statistics, they are little human beings.

When I came back to the cottage that night to make sure all the other boys and staff were OK—because we have had two suicides in that cottage already, and our kids are only 11, 12, and 13 in there, some of them, 9—one little boy walked up to me crying, tears streaming down his face, and he said, Ms. Pat, why did Troy have to die? I said, because he was just too wounded to be fixed here on earth. And that is how these kids are. We have just got to pay to get their wounds fixed.

I certainly thank you for having the patience to listen to me. I am sure that is a trial in itself, because I am a bit overbearing at times.

But please, please pay attention to what I say, because I don't have any axe to grind. I turned down jobs with the State because I consider it immoral the way we handle children.

I don't want a paid job. I enjoy working for my boss. So what I say is I just want to help these kids.

I thank you.

Chairman MILLER. Thank you very much, for your testimony here, and obviously for all of your work with the children.

Judy, thank you for coming this morning to talk with us. Obviously it has been difficult for you to sit through a lot of this testimony, because a lot of it points right to the very tragic problem that you encountered with your own family. But we really appreciate you making this effort.

So, to the extent that you can, you relax, and just proceed as you are most comfortable.

[Prepared statement of Patricia Hanges follows:]

Prepared Statement of Patricia Hanges, Franciscan Lay Volunteer, Assigned to State Juvenile Facility in Maryland Called Montrose

My name is Pat Hanges. I'm a Franciscan lay volunteer currently assigned to a State Juvenile Facility in Maryland called Montrose. The report I sent explains the purpose and type children in this institution. I work in the capacity of advocate for the children.

Prior to joining the Franciscan Lay Community I served as a Major in the Baltimore County Police Department. For 15 of my 25 years of service I served as O.I.C. of our County's first Youth Division. We handled approximately ten thousand cases a year. Our cases ranged from abuse, neglect, runaway and throwaway children to serious delinquent offenders.

Our programs were nontraditional approaches for a Police Department so that all of our initial funding came from Federal Grants. Our programs were all picked up and expanded by the Department and the Local Government.

Our main emphasis was, and still is, keeping children in their own home and community whenever possible. We learned that early intervention and keeping the family out of the formal juvenile justice system worked the best, and it is certainly cost effective.

The problems we had to overcome to accomplish this were educating the community--developing community resources, and the educating of our own Police Officers. Also, we developed a real inter-agency working approach. I was fortunate in Baltimore County as we could and still do work through local branches of State bureaucracies effectively.

The State study I sent to you is the result of three years of advocacy. It's an accurate report as State reports go.

WHAT I WOULD LIKE TO SHARE WITH YOU TODAY ARE MY PERSONAL EXPERIENCES WORKING ALMOST DAILY IN THE COTTAGES DIRECTLY WITH THE CHILDREN AND THE STAFF. I HOPE I CAN EFFECTIVELY CONVEY TO YOU THEIR STORY, THEIR HOPELESSNESS, THEIR PAIN, BUT MOST OF ALL THEIR NEED FOR HELP. FOR IN SPITE OF ALL THEY HAVE BEEN THROUGH, THEY ARE SO BEAUTIFUL. THEY ALL RESPOND TO GENUINE LOVE. THEY DO NOT NEED AN INSTITUTION; THEY NEED A HOME. THEY ARE CHILDREN THAT HAVE BEEN ROBBED OF THEIR CHILDHOOD. THEY ARE MY HEART.

I'M OVERWHELMED BY THEIR NEEDS. CONSTANTLY FRUSTRATED BY A SEEMINGLY UNMOVEABLE BUREAUCRATIC SYSTEM. A SYSTEM THAT IS COSTLY NOT ONLY IN MONEY BUT, IN MY OPINION, RIPS FAMILIES APART, SHREDS THEM OF THEIR BASIC RIGHTS TO BE TREATED WITH LOVE AND DIGNITY. OUR LAW STATES WE ARE TO TREAT THESE CHILDREN IN THE LEAST RESTRICTIVE ENVIRONMENT AND YET WE WAREHOUSE OUR CHILDREN IN ALARMINGLY HIGH NUMBERS WITHOUT TRYING COMMUNITY TREATMENT FIRST. "THOUSANDS FOR LOCKUPS BUT PENNIES FOR PREVENTION."

I WAS SENT TO MONTROSE THREE YEARS AGO UNDER THE AUTHORITY OF A STATE GRANT TO STUDY INSTITUTIONAL ABUSE. THE GRANT WAS WRITTEN BY H.E.L.P. RESOURCES UNDER D.H.R.. THEY HAD A HARD TIME RECRUITING VOLUNTEERS AND TO MY KNOWLEDGE VOLUNTEERS DID NOT RECEIVE REALISTIC TRAINING. I WAS THE ONLY ONE WHO STAYED AND WORKED IN AN ADVOCATE ROLE. I FEEL IF IT HAD NOT BEEN FOR MY BACKGROUND I WOULD NOT HAVE SURVIVED. I ALSO HAD THE SUPPORT OF THE SUPERINTENT WHO WAS EXTREMELY COOPERATIVE. HE READILY ADMITTED THE INSTITUTION WAS IN NEED OF HELP. ALTHOUGH HE HAD ASKED FOR FUNDS TO IMPROVE THE CONDITIONS, HIS PLEAS WERE IGNORED.

WHEN I ARRIVED AT MONTROSE EVIDENCE OF NEGLECT WERE EVERYWHERE. OVERCROWDED, UNDERSTAFFED, BADLY IN NEED OF REPAIR; IT SEEMED TO ME THAT VIRTUALLY EVERYONE HAD GIVEN UP. BEST DESCRIPTION I CAN GIVE IS IT WAS A HUMAN WAREHOUSE.

LET ME DESCRIBE FOR YOU WHAT I FOUND IN MY FIRST COTTAGE

ASSIGNMENT. SANFORD COTTAGE NEEDED EVERYTHING, STAFF, FURNITURE, AND RECREATION EQUIPMENT. THE ONLY THING SANFORD HAD WAS AN ABUNDANCE OF CHILDREN. THE COTTAGE WAS SO OVERCROWDED EACH CELL WAS FILLED. MANY HAD TWO BEDS IN A VERY SMALL AREA. OVERCROWDING ESCALLATED AFTER THE DEPARTMENT FROZE THE PURCHASE OF CARE MONEY. CHILDREN WERE DEPRIVED OF NEEDED PLACEMENTS. CONDITIONS IN SANFORD AND THROUGHOUT THE INSTITUTION BECAME WHAT I CONSIDERED INHUMANE. AFTER MANY COMPLAINTS TO THE PEOPLE IN CHARGE, I COULD SEE MORE DRASTIC METHODS WOULD BE NEEDED TO DO SOMETHING FOR THESE CHILDREN. CHILDREN WERE SLEEPING IN THE GYM ON MATTRESSES, AND IN HALLS. SIX CHILDREN WERE CRAMMED INTO A SMALL AREA IN THE COTTAGE, ORIGINALLY A VISITING AREA. THERE WAS NOT ENOUGH ROOM AND THE HEAT AND THE SMELL OF STALE AIR WERE HORRIBLE. ALSO, ATTEMPTED SUICIDES ALREADY A PROBLEM BECAME A DAILY OCCURRENCE. THE BOYS' COMPLAINTS OF SEXUAL ADVANCES BY OTHER STUDENTS ALSO INCREASED. AT THIS TIME I CALLED OUR LOCAL SOCIAL SERVICES AND REQUESTED AN INVESTIGATION AND I WANTED TO CHARGE THE STATE WITH NEGLECT. I ALSO COMPLAINED TO THE BUREAUCRACY IN CHARGE OF THE INSTITUTIONAL ABUSE GRANT. EVERYONE WAS SYMPATHETIC AND AGREED IT WAS A REAL PROBLEM BUT NO ONE GAVE ME ANY SOLUTIONS. IN DESPIRATION, I WENT TO OUR LEGISLATORS, THE LT. GOVENOR AND FINALLY TO THE NEWS MEDIA.

ALL THE CHILDREN WERE LOCKED IN THEIR COTTAGES. WHEN I FIRST CAME INTO SANFORD I OBSERVED CHILDREN PUNISHED BY PUTTING THEM IN THEIR CELLS, WHAT STAFF CALLED EARLY BED WHICH MEANT 6:30 OR 7:00 P.M. IN THE EVENING. WHEN THE CHILDREN BECAME FRUSTRATED AND ACTED OUT THEY WERE SENT TO ISOLATION FOR VERY MINOR OFFENSES. EARLY BEDS ARE NO LONGER ALLOWED BUT IT'S DIFFICULT TO ENFORCE IT AT ALL TIMES. ISOLATION IS STILL USED FOR MINOR INFRACTIONS. I OBSERVED STAFF RATIO 2 TO 38 AND AT TIMES, DO TO LATE CALL-IN'S, 1 STAFF IS ON DUTY. AS YOU CAN IMAGINE, STAFF MORALE IS VERY LOW. IT'S DIFFICULT TO RECRUIT GOOD PEOPLE BUT WE DO HAVE SOME STAFF WHO ARE GOOD BUT NEED TRAINING AND A REWARD SYSTEM. FOR THIS KEY POSITION, ALL THAT is required is a G.E.D. (a few years ago our state lowered the standards for this position). We need trained Child Care Workers. Whether intentional or not, everything was done to break the spirit of the children. Some examples: Told when they could come out of their rooms to go to the bathroom. I observed children made to wait purposely by some staff. Also, the staff would call sit down and stand up so they controlled even that. Absolutely no privacy--for toilet paper they had to ask the staff each time. No mirrors were allowed. No speaking during meals. Children were not allowed to call home. All their incoming mail is read by the staff. Constant verbal abuse and intimidation by staff. Some of these and other dehumanizing procedures have been stopped. Many still exist.

Another problem area I identified and had great difficulty closing was an area over the Administration Building where they were housing children. They had 25 to 30 boys crowded in a series of rooms that was formally a nurses station. It was badly in need of repairs. I observed exposed wiring, overcrowded sleeping space, and no adequate recreation area. It was unbearable in the summer. I repeatedly complained that it was inhumane. Finally it was closed after a student's shoulder was dislocated by a staff member while attempting to restrain the student in an overcrowded recreation room. The student received only an ice bag and aspirin for pain. When the mother visited on Sunday, she complained and the youngster was taken to the hospital where he required surgery. He went three days before this was done.

When I went to Williams Cottage, the youngsters complained of being placed in a pink room, another isolation room. One little child cried and said he was afraid because a little boy had hung himself in the room. I could not believe that they would continue to use this room after James Guttridge, age 12, had hung himself. I documented many instances where staff locked children in this room for hours. Due to the location of the

ROOM IT WOULD BE VIRTUALLY IMPOSSIBLE TO PROPERLY CHECK IT. AFTER MONTHS OF DOCUMENTING, THE ROOM WAS CLOSED. I FEEL IF I HAD NOT GONE TO MONTROSE THEY WOULD STILL BE PUTTING CHILDREN IN THAT ROOM. IT WAS A HORRIBLE ROOM, SMELLED BADLY FROM CHILDREN URINATING IN IT. IT IS SO IMPORTANT THAT THESE CHILDREN HAVE SOMEONE TO STAY AND COMPLAIN TO. NOTE, EVEN AFTER A WRITTEN MEMO WAS WRITTEN BY THE SUPERINTENDANT, THE STAFF PLACED CHILDREN IN THIS ROOM. THE COTTAGE MANAGER AND I HAD THE DOOR REMOVED SO THIS COULD BE STOPPED.

ALSO, IT SHOULD BE NOTED, MRS. GUTTRIDGE WANTED HER SON. SHE VISITED HIM EVERY WEEK. CONSTANTLY CALLED. TRIED TO HELP BY BRINGING THINGS OUT TO CHILDREN WHO RECEIVED NO VISITORS. THIS MOTHER WANTED HELP FROM THE SYSTEM. JAMES COULD HAVE BEEN SERVED IN HIS COMMUNITY WITH BACK-UP SERVICES FOR HIS FAMILY, RATHER THAN INSTITUTIONALIZATION.

MANY OF OUR CHILDREN HAVE BEEN SEXUALLY AND PHYSICALLY ABUSED, NEGLECTED AND CANNOT GO HOME. JAMES WAS NOT ONE OF THESE BUT WE DO NOT PROPERLY ASSESS OUR CHILDREN AND FAMILY SITUATION, IF WE HAD, JAMES WOULD BE ALIVE TODAY.

WE HAD A SECOND CHILD, 13 YEAR OLD TROY, DIE THIS YEAR. HIS TWIN BROTHER WAS ALSO IN MONTROSE. HE WAS IN THE COTTAGE NEXT TO MINE. BOTH BOYS HAD BEEN REFERRED FOR COMMUNITY HELP; NONE WAS GIVEN. BOTH WERE THERE FOR MINOR OFFENSES. AGAIN THIS MOTHER CAME TO VISIT AND REALLY CARED BUT NEEDED SUPPORT. TROY'S BROTHER ALSO ATTEMPED SUICIDE AND IS NOW IN A PRIVATE FACILITY AND DOING WELL.

I TALKED TO TROY DAILY WHILE HE WAS AT MONTROSE. HE WAS VERY UNHAPPY AND WAS SENT TO ISOLATION DAILY, SOMETIMES TWO AND THREE TIMES IN A DAY. HE WOULD SAY M'S PAT, THEY ARE SUPPOSED TO HELP ME, I NEED HELP. ONE WEEK BEFORE HE DIED THE COUNSELOR AND I DROVE HIM TO R.I.C.A. FOR AN INTERVIEW. R.I.C.A. IS A STATE FACILITY SUPPOSEDLY SET UP ON A THERAPEUTIC MODEL TO HELP CHILDREN LIKE TROY. THEY TURNED HIM DOWN AND HE JUST GAVE UP. THE DAY

HE WENT TO ISOLATION HE HAD ASSAULTED A TEACHER. HE TOLD THE SECURITY PERSON AT ISOLATION, IF THEY PUT HIM IN THE CELL HE WOULD KILL HIMSELF. AN HOUR LATER I RECEIVED A CALL IN THE COTTAGE TO GO TO THE HOSPITAL THAT HE HAD HUNG HIMSELF. AT THE HOSPITAL I HELD HIM AND KISSED HIS PRECIOUS FACE BUT I KNEW HE WOULD NOT MAKE IT. HE WAS JUST TOO WOUNDED TO STAY ON THIS EARTH.

THEY ALSO NEEDED HELP. WE SPENT AT LEAST TEN THOUSAND ON HIM AND HIS BROTHER FOR MONTROSE BUT DID NOT GIVE HIS MOM WHAT SHE NEEDED--HELP TO RAISE HER SONS.

IF WE ARE TO CONTINUE MONTROSE AS A PLACE FOR THESE CHILDREN, OUR STATE MUST BE MADE TO CLASSIFY THESE INSTITUTIONS THERAPEUTIC MODELS BY LAW. THESE CHILDREN NEED TREATMENT.

EVEN AFTER TROY'S DEATH, SEVERAL INCIDENTS OCCURRED THAT IMPRESSED UPON ME THE NEED FOR MONITORING THIS INSTITUTION.

A 13 YEAR OLD WAS SENT TO OUR COTTAGE FROM A MENTAL HEALTH HOSPITAL. IT WAS OBVIOUS TO ME AND TO THE STAFF THIS CHILD WAS EXTREMELY EMOTIONALLY DISTURBED AND COULD NOT MAKE IT IN MONTROSE. REPEATED ATTEMPTS WERE MADE TO GET HELP FOR THIS 13 YEAR OLD; NO ONE AND NO PROGRAM WOULD ACCEPT HIM. THERE IS NO WAY MONTROSE COULD BEGIN TO HANDLE HIM. EACH DAY HE WOULD LOSE CONTROL AND SPENT MUCH OF HIS TIME IN ISOLATION. ON ONE OCCASION HE REALLY WENT OFF. IT TOOK MYSELF AND THE COTTAGE MANAGER AND A STAFF PERSON TO HOLD HIM TO KEEP HIM FROM DOING SERIOUS HARM TO HIMSELF. HE HAD REPEATEDLY BANGED HIS HEAD ON THE FLOOR, TRIED TO BITE THROUGH HIS LIP, AND SCRATCHED HIS ARMS AND FACE AFTER PUTTING HIS FIST THROUGH A BOOKCASE IN THE COUNSELOR'S OFFICE. WE WERE ALL CONCERNED AND TOLD EVERYONE AT THE NURSES STATION NOT TO PUT THIS CHILD IN AN ISOLATION CELL. THE COTTAGE MANAGER, THE COUNSELOR AND MYSELF ALL WENT IN DIFFERENT DIRECTIONS TO MAKE CALLS TO TRY TO MOVE THE SYSTEM TO GET THIS CHILD OUT OF MONTROSE. WE (THE COTTAGE MANAGER AND MYSELF) RETURNED TO THE CLINIC TO GET HIM (APPROXIMATELY 30 MINUTES HAD LAPSED) WE HEARD A LOUD BANGING NOISE COMING FROM

THE ISOLATION UNIT. WE RAN IN THE BUILDING AND FOUND THEY HAD PUT THIS CHILD IN A CELL BY HIMSELF. WE ENTERED THE UNIT, RAN TO HIS CELL AND HAD TO WAIT FOR THE STAFF TO OPEN THE LOCKED DOOR. THIS CHILD WAS BEATING HIS HEAD REPEATEDLY AGAINST THE METAL SCREEN SO HARD HE WAS BLOODY AND BRUISED AND IN A HYSTERICAL STATE. I WONDER WHAT WOULD HAVE HAPPENED IF WE HAD NOT RETURNED.

APPROXIMATELY TWO MONTHS AGO A LITTLE 11 YEAR OLD FROM OUR COTTAGE, WHO IS ALSO VERY EMOTIONALLY DISTURBED, ACTED OUT IN SCHOOL AND WAS SENT TO ISOLATION. HE TOLD THE SECURITY PERSON IF YOU PUT ME IN THAT CELL I'LL KILL MYSELF. HE WAS PUT IN AND HE DID TRY TO CHOKE HIMSELF. A COMPASSIONATE COUNSELOR CALLED ME AT THE COTTAGE AND THE COTTAGE COUNSELOR AND I IMMEDIATELY RESPONDED. THE CHILD WAS VERY UPSET AND WHEN I HUGGED HIM AND ASKED HIM WHAT HAPPENED HE TOLD ME HE HAD TOLD THE SECURITY MAN NOT TO PUT HIM IN ISOLATION OR HE WOULD TRY TO HURT HIMSELF. THE SECURITY MAN SAID "GO AHEAD THAT'S ONE LESS LITTLE BOY I'LL HAVE TO WORRY ABOUT".

I COULD GO ON AND GIVE YOU A BOOK ON WHY THESE CHILDREN NEED AN ADVOCATE, BUT I THINK YOU ALREADY KNOW HOW BAD THESE PLACES CAN BE, AND HOW VERY HELPLESS THESE CHILDREN ARE.

1. IF MONTROSE REMIANS OPEN IT MUST BE TOTALLY PRAGMATICALLY CHANGED. (THERAPEUTIC MODEL)
2. IT MUST BE PROPERLY FUNDED.
3. COTTAGE LEVEL STAFF POSITIONS MUST BE UPGRADED AND ON-GOING TRAINING MUST BE GIVEN.
4. STRONG ADVOCACY (MANDATORY) PROGRAM
5. PARENTAL INVOLVEMENT

YOU MAY ASK, AS I DO, HOW DID WE EVER GET INTO THIS MESS? HOW COULD THIS HAPPEN TO CHILDREN IN THE MOST POWERFUL, WEALTHIEST NATION ON THE FACE OF THE EARTH? IT HAPPENED BECAUSE NO ONE CARED ENOUGH TO GET INVOLVED. IT WAS MUCH EASIER TO REMOVE

THEM OR HIDE THEM FROM THE COMMUNITY. IF PLACES LIKE MONTROSE CONTINUE TO WAREHOUSE CHILDREN YOU WILL NOT BE ABLE TO BUILD JAILS BIG ENOUGH TO HOLD THE VIOLENT ADULT CRIMINALS WE WILL CREATE. THE HARD COLD FACT WE HAVE HAD TO FACE AT MONTROSE IS THAT THE MAJORITY OF OUR KIDS ARE NEGLECTED, ABUSED AND THROW-AWAYS. THEY ARE YOUNGSTERS WHO NO ONE WANTS BUT THE MAJORITY OF OUR POPULATION ARE NOT HARD CORE DELINQUENTS.

AFTER SEVERAL REPORTS, STUDIES COMPLETED DURING THIS PAST YEAR, WE HAD TO ADMIT THAT WE WILL HAVE TO RAISE MANY OF THESE YOUNGSTERS. WE ALSO KNOW LARGE STATE RUN FACILITIES ARE NOT THE PLACE TO RAISE THEM.

THE CHALLANGE NOW IS TO DEVELOP MODELS WHERE THESE BROKEN LITTLE WOUNDED PEOPLE CAN BECOME LOVING WELL-ADJUSTED ADULTS.

THANK YOU,

MAJOR PAT HANGES RET.
FRANCISCAN VOLUNTEER ADVOCATE
MONTROSE

[Article entitled "Feasibility and Desirability of closing Montrose School" is maintained in committee files.]

STATEMENT OF JUDY GUTTRIDGE, MOTHER, BALTIMORE, MD

Ms. **Guttridge**. Well, I am not a good talker so——

Chairman **Miller**. Well, don't you worry about that.

Ms. **Guttridge**. Well, when my son was real young he was diagnosed as a hyperactive child. So we had a lot of problems; we went through a lot of clinics, behavior clinics, different kinds, to try to control his problem—which mostly was in school.

As he got older, I was having more problems. So I went to JSA, because he had hooked out of school two times, and I didn't know what to do about it. I didn't want it to be a persistent problem.

So I went to—I inquired, and somebody had said, well, you can go downtown, it is juvenile services, they help people.

But when I went down there, they told me, there isn't anything we can do for you. I said, well, why?

They said, well, because your son has never been in trouble. I said, I have got to wait until he breaks the law before you are going to do anything. And that was the whole thing, they weren't going to do anything until he got into trouble.

So, about 2 or 3 years later, he did get into trouble. He was swimming in a pond and he was arrested for trespassing. So they sent for him to go before a hearing to see if it goes to court or not. Of course, it didn't go to court.

The second time he was arrested I insisted that it go to court, because if he got into trouble they were going to help me. I insisted that it went to court.

They asked me what I wanted? I said, can't you put him on probation.

So they put him in on probation, which didn't help. The probation officer, all they do is say, hi, Jimmy, what did you do today? He tells them. Were you good? Yes. Well, he not going to tell them if he did something wrong.

They would pat him on the back, and out the door they go. And that is what they do every 2 weeks. I was there, I know.

So when he got into trouble again they detained him. As a matter of fact, both my boys were detained. Both were in the same trouble at the same time.

While they were detained for 30 days—one was spunky, and one just did everything he was told. When I went to court, one went home and one stayed, that was Jimmy.

When he got there I called the social workers and asked them if he was going to be evaluated? They told me yes; yes, at Montrose.

They said, yes. I said, I would like to have a report. Well, you are not getting any. Why?

They told me that he was no longer my son, he belonged to the State of Maryland, and that I wasn't allowed to have—I had nothing to do with what went on in life anymore. This was a social worker there at Montrose.

I still called, and I still got upset. My husband said, don't call there no more. Every Sunday I went. My son would tell me what went on.

One Sunday we went there and he told me that a man there had made him take all his cloths off—and four other the boys—and all the other little boys in the cottage went around and got to touch them, whatever, the whole rest of the cottage.

When I called Monday and I told—you can't call Sunday, there is nobody to tell anything to—so you call in, they said they would call the State Police and it would be investigated.

Well, needless to say the guy was let go because he was on probation, and that was it. If it would have been me though, I would have been in jail for sexually abusing some kid—but anyway, nothing happened.

Two months later, I went in and my son had bruises all over his back. And I asked him what happened? He told me that the staff had picked up a chair and hit him with it.

I called—that was my son's word against the staff's word; so, of course, nothing happened there.

A few months later—my son was there from November until he died in June. He was never allowed to come home. He was out of there for 3 hours one time.

They have a bus that comes and picks people up. You leave your house, if you live in Baltimore, you leave your house at 9 o'clock in the morning and you get there at 11:30.

The bus doesn't come to pick you up a mile away until 1:30—and in the beginning I had to take the bus because I didn't have a car.

The bus picks you up at 1:30, by the time you get there it quarter of 2, and you have to leave by 3:15; so you have an hour or an hour and a half with your kid at the most. If you have a car then you could spend the whole 3 hours with him. But if not, this is the way it goes.

If you miss that bus, that is just tough, you don't see your kid.

While I was there the staff would holler, you could hear the confusion in the back while you were visiting. It was dirty, it stunk. It was just was not a very happy place.

They didn't watch TV—and I am talking about when I was there, I don't know what goes now, but when I was there I knew they didn't have TV, they marched them back and forth like little prisoners.

My son asked me one time, what would you do if I showed up at the house. I was stupid enough to tell him I would take him back, because I was going to do what the law wanted me to do, which was dumb.

In June, I got a phone call at 12 o'clock at night, my son had tried to commit suicide; he was fine; he was in the hospital.

I just dropped the phone and my husband took it. I don't remember much of what happened or how we got there.

But when we got there he was not OK. He was unconscious. We were there all night and all day. He died that afternoon.

While I was there I got a phone call from somebody who said they were my brother-in-law, and when I went to answer the phone they told me, don't let them get away with this, they will try to buy you, they will try to bribe you, they will do everything, but don't let them get away with this no longer, these kids don't deserve this.

Well, I don't know who it was. We tried to find out, but we couldn't find out who it was.

After he died nobody from Montrose called. Nobody was there when I got there.

It was like he was nobody. He did what he did, so, whatever happens to him we don't care.

He is in the hospital—they don't care. They gave him back to me the day that—that night he no longer belonged to Montrose or the State, he belonged to me again, because he was dying. It was like was nothing.

Nobody was there. Nobody called. It was just nobody cared. And those kind of people should not be there, because if I would have been there I certainly would have stayed there, or I would have had somebody there.

So I have an emptiness inside of me for the rest of my life and I just don't want to see other people have to do that.

I wonder how tall my son would have been, how big, what would he have done—I just have all these feelings and they never are going to go away. It always going to be there, all that pain, and I just don't want to see anybody else—and it doesn't have to be somebody who is poor. It could be one of your kids, any one of you, you don't have to be poor, you don't have to be rich. You can just be one of those statistics.

I guess that is all I have.

Chairman Miller. Thank you, Judy, very, very much.

First of all, let me thank all the panel for their testimony.

I think the description that all of you have given this committee of this system, at whatever level it functions, clearly is a very mean system. It is a very cruel system. It is a very brutal system. And a system that clearly—based on my 10 years of experience, seems to more often entrust our children to people who victimize and brutalize than it does to people who care for them, whether in the name of an institution or individual.

But 10 years ago we started writing the law that was supposed to have changed that. Even in the jubilation, when the President signed the law, I knew I would be here some time in the future. Because even that administration didn't want to enforce it; and clearly this administration doesn't want to enforce it. And most of States aren't interested in enforcing it.

But the fact of the matter is that almost every negative aspect of these children's experiences, which you have described today, is, in fact, in violation of the law. So it is not a question of coming and asking for new laws.

I could express the rage I feel when I listen to you, but it wouldn't be terribly beneficial to anybody.

But I think it is very, very troublesome, and for member so this committee who weren't here when we went through this the first time, let me say there is nothing said this morning that wasn't said to us 10 years ago. The numbers appear to be a little greater than they were in terms of the total number of children and families affected.

But I guess what is so damning about this situation is that these children are being brutalized by the State. And there is just no other explanation for it. Whether it is the District of Columbia, or the city of San Francisco, or the State of California, or Arizona, or New Mexico, or Mississippi, or anywhere else—I just named those

States but I don't think there is a tinkers damn worth of difference between any of them—or the Federal Government. It is the State that is brutalizing these children.

It is the State, that in violation of the law, is ripping them out their homes without any effort to see whether or not we can provide some kind of services to lessen the tension in those families, so maybe they will not have to leave their home. And yet, we have had studies and examples and experiences that you could stack to the ceiling of this room, that where we make that effort, it is clearly successful. Not programs designed in Washington—I know the cities, I know them by heart—it is Nashville, it is Grand Rapids, it is Portland, it is San Francisco where communities have made this effort.

After they have been taken from the home, the law requires that they be provided reunification services. And that clearly has not been done in any of the cases that you talked about.

We were alarmed 10 years ago by the studies done at Stanford that indicated that in California you get 6 minutes on the average for a court review to review 6 months of your life. Which may in some instances be half of your life, if you are an infant.

We were alarmed; and now we hear there is 30 seconds spent on the periodic review. It is a clear violation of the law. Periodic review without advocates—clear violation of the law.

I think what this committee is going to have to come to grips with is whether or not we are prepared to participate, by refusing to act, in letting the State continue to brutalize very young children.

There is no question that there are also some very brutal children who engage this system and have to be treated at one level. But when we hear a system that continuously allows infants, allows young children, allows very young adolescents to be killed, to be molested, to be sexually abused in the name of the State, by the employees of the State, by families they have been put into, that have been condoned by the States, that have told their families, these people will take good care of your child, we are criminally negligent, as well as the person that thrust the pain on that child.

We are very fond of saying we don't need new laws; we just need the laws on the books enforced. Well, that is kind of where we are.

We made a pact with the States that if they would upgrade their placement system, that if they would upgrade their tracking system, so at least we could find where the hell the children were—because the big problem that alarmed everybody in this institution was that we were writing checks for 100,000 children and we didn't know where they were, other than the address where the check went to. Those were the kids in the Federal system. But if they would do all of that, we would start providing money for services.

Many States took us at our word and made an effort, and we never provided the money for the services. So now what we see is we are right back into the jungle where we are providing $60,000 a year care, but we won't provide $500 counseling system for the parent who is beating their child or the child that is in trouble.

We won't provide $1,000 a month to try to stabilize that that family in terms of counseling; but we will spend $60,000 to rip the child out of the home. We are back into the use of drugs.

You are right, you don't have to be poor, because this committee sat and listened to well-off people that had insurance and had their children die in psychiatric hospitals, because that is the fad. You can lock them up privately now. And we have tens of thousands of them locked up privately.

I knew I would be here, I knew in my worst, worst moments, I knew that I would be here again—and I see it in my own county.

Chairman **Miller**. Let me just ask two questions, after I vented my feelings and a little bit of my rage.

Mark, when you listen to the these stories—and, clearly, Judy's story is sort of the worst end of the spectrum here, with the death of her own child—where do parents go in this day and age, when they visit their child or their child tells them a story, or where do child advocates go when, in fact, what we see is a child being brutalized in one of these institutions?

Is this clearly—as Patricia and Judy have both pointed out, if they had done that they would have been brought up on criminal charges. They would have been held criminally liable for assault for battery, for child abuse or molestation, or all of the laws that we put on the books to protect children from some stranger in society. And yet in the name of the institutions, we see this happening.

It is no longer a rare example. Your testimony—you obviously point out—but it is not a rare example in any jurisdiction. Where do people go to get justice in that notion?

Do we prosecute these people; do they have wrongful death claims; do they file these activities; does the State file? Or are these settled?

Here you have a system that brutalizes somebody and finally we get together this summer, and you appoint a court master, and somebody will look over the system, and the notion is—I am getting on the verge of seeking vengeance here, and I am trying to restrain myself.

But what you do is you really say we will reorganize this system to be better in the future. But what about the victims of the past? What happens to them? Where in the legal context, where do they fit?

Mr. **Soler**. I think the victims of the past are lost. I think if they don't know where to get relief, they don't know where to get justice——

Chairman **Miller**. What about the perpetrators, do they remain in the system?

Mr. **Soler**. They often remain in the system. Congressman, in the last 8 years, I have talked to dozens of mothers like Judy Guttridge, who have told me very similar stories.

I have heard the agony that they have gone through. And I have talked to their kids, the kids who have survived these kinds of experiences.

Increasingly, the only way to get justice in these situations is to file big law suits against the counties or the States, and to try to get justice in the courts. Even that can be a very frustrating, long, time-consuming, expensive experience.

But if you look at the States that have made major reforms, North Carolina, Utah, Colorado, some of the other States, those reforms have come about as a result of litigation to try get justice for the kids who were in there. You have to remember that of the stories that are reported, the stories like Judy Guttridge's and things like that, that is a small percentage of the real abuses that are going on because children in institutions are not like adults in prison. Children in institutions don't know what their rights are, and they are afraid to tell when they have been abused.

They are afraid there will be retaliation against them. They are afraid nothing will happen.

I have talked to kids, and only after knowing them for months, and gaining their trust, do they finally tell me what happened several months ago. They are simply afraid to tell. We are only seeing the tip of the iceberg.

Chairman MILLER. Then we are not talking about something that is out of the norm, in terms of the brutalization of these children, whether it is physical or psychological, or sexual or whatever should happen to them; is it really out of the norm?

I assume when you invoke—when a child becomes a victim, it is also a sliding scale. I assume a child that is 7 and 8 years old might more readily become a victim because they simply have less ability to deal with their environment and the situation that is around them.

But this—you are all nodding your head here——

Mr. SOLER. Congressman, we have all seen this. What is interesting to me is that none of us talked before we gave our presentations, and yet we basically all said the same thing.

We have all seen incredible brutality involving children. My wife thinks she is married to Charles Dickens. I come back home with one incredible story after another. And yet we all see the same causes of these problems.

The services are there, the technology is available. They are not being used in appropriate ways.

It is not a question of appropriating enormous amounts of more money. Most of these programs, community-based programs, better services, are actually cheaper than the programs that are being used now. And all of us see it out of different contexts.

Chairman MILLER. Let me ask you something, though—and, Mark, you have encountered this system personally in terms of your own effort to try to adopt a child or become a foster parent—I am very empathetic to the case workers and others who have case loads that almost drown them. But I am also very concerned that again over a decade of bumping up against this system, either as an advocate for my constituents, or out of my interest or visiting facilities, or talking to children, I constantly run up—somebody said today, a lethargic, almost numb, bureaucracy.

Again, I come to the question, is it a fact that they are so bombarded by this being the norm in terms of the treatment of these children, you start to adjust the perimeters of what is acceptable? That the bruises on the back are not a big deal in an institution where children are hanging themselves?

I am a little frightened that we are numbing people who went into a field well-intentioned—but, I used to say that in some areas where I saw the placement was almost impossible, that an overnight ride on the metro seemed to be placement and maybe was acceptable at some point.

You start moving your notions of what is beneficial here, or what is wrong, or what is right. But, again, I see it in almost every jurisdiction, that the bureaucracy sloughs these people off; there is no sense of urgency in the phone calls or in the parent that is waiting to hear from their child, or the couple that is waiting to adopt, or the people that are concerned about the status of their child in their foster care.

There is a huge "manana" complex here.

Ms. SHUST. Mr. Miller, I think this goes to the confidentiality nature of the juvenile justice system. The public really doesn't know what goes on because hearings are closed to the press.

We would never stand for this kind of behavior of adults. You can be a convicted-crazed killer, locked up at the John Howard Pavilion at St. Elizabeths Hospital, and you will have more due process rights than a child who is incarcerated down the road at Oak Hill in Laurel, MD.

I think that if juvenile court proceedings were open to the public you would have more agency accountability. In our court system judges hold agencies in this city in contempt of court.

They fail to follow their court orders. Yet what happens, does the public know; no. Nobody knows about what goes on except the child, his family, and his lawyer in that courtroom.

Mr. SOLER. Congressman, I just want to make one other comment. One of the most horrifying statistics that I learned when I got involved with the San Francisco Department of Social Services was learning that the justification that has been given consistently for the mistreatment and neglect of children in foster care in that system has been what has been called enormously high case loads.

The defense has always been "Our workers can't do anything because they are overworked." And finally we got some figures on how high the case loads are.

The average worker in San Francisco has 30 to 35 cases. That is not an enormously high case load.

The resources are there; they are not being used efficiently. They are not being used in a way that actually protects children.

Ms. SHUST. Mr. Miller, I would also like to add that next year, 1987, will be the 20th anniversary of the Supreme Court decision in re: *Gault*, and I am afraid if we take a look at our juvenile justice system we are going to see that it really has failed. It fails the children, and it continues to fail children.

Unless we are willing to do something as a society, it is going to continue to fail everyone.

Ms. HANGES. Can I give you a practical thing?

Chairman MILLER. Yes.

Ms. HANGES. Practically I have been in that institution 3½ years, daily. What is needed desperately—and this should be mandatory, and this is such a simple thing I don't see why anybody doesn't do it—the basic people that work with these children daily, that have their control and their life in their hands are not trained child-care workers.

There should be mandatory training. The only thing you have to be—youth supervisor, I won't even honor it by calling it child-care worker position—is a GED.

We assume that these people know how to take care of children. And we assume a lot when do that. And not only—even if they did know how to take care of their children, which I doubt in some instances, by looking at the way they handled these—these are very special children, with very special needs.

You can pour $20 million in Montrose tomorrow and it will do no good until you train the people that work every day with these children, to love and care about them, and to handle them. Because it is work. That is why it is called child-care worker. It is work to handle these little huggers, I will tell you; it is not easy.

But that is what you are paid to do, and that is what you have to train them to do, but we have got to train them.

Ms. WEINROTH. I would like to add to that just briefly, Diane and I have some very, sort of, gallows humor. There is some gallows humor among people in this field.

We are fond of saying that we are convinced that a lot of the counselors at the group homes in the District of Columbia are on work release from Lorton.

I will tell you I have never, ever, ever, been afraid of one of my clients. But I have been afraid to go into some of those facilities at night and deal with the night staff alone. It is frightening. It is absolutely frightening.

They have got some very strange people working in these facilities. I don't know where they come from. But I will tell you this, there are no standards for hiring.

There is no monitoring whatsoever. I just don't know where these people come from. They have absolutely no idea how to work with these children.

Another thing I want to mention that relates to something that you said, Mr. Chairman. It is very difficult to legislate change sometimes—but 96-272, was a great leap forward.

I think it has brought about some great improvements, at least in abuse and neglect systems. But there is the pervasive problem of enforcement.

Where is the leverage; how do you get people to respond to it?

We try in the small pond, on a small scale, to get into court, to get court orders, so that we can go back and constantly fight, and fight, and fight. The posture I like to be in, that I like to try and be in, is to get a court order, so then if the agency is in contempt of court, we can try and hit them with a fine. Of course, that is not efficient but it is the only mechanism that we have.

Funding is an enforcement mechanism; publicity is an enforcement mechanism. Otherwise, everyone knows how hard it is to enforce standards—and the corruptionists in the social services system know—and I think Patricia has suggested that there is corruption; and there certainly is.

Wherever there is money to give away, and there is money to give away in the child welfare advocacy system, you are going to find corruption. So the sunshine, the cleansing effect of sunshine is very important.

I think that is just something to think about. I think there are things that can be done like 96-272—96-272 is a great law. Perhaps now we have to think about better ways to get it enforced, and to get the States to really pay attention to it, and do what they are supposed to do, and do it in a meaningful way.

Chairman MILLER. Mr. Coats.

Mr. COATS. Well, thanks to all the witnesses for providing testimony this morning. Obviously, it has staggered everyone here in the room to get a feel for the dimension of the problem that we are facing.

I am sure there are lot of people asking why; why is this happening? Why, despite the fact that laws are on the books and money is being spent and is available, why does this continue?

It makes me ask the question, and maybe you can give me some answers, as to the whether or not the whole system needs to be revised, or reformed, or looked at; and if so, how do we begin to go about doing that?

We have a system in place. You have to assume that there are enough people along the line, at the Federal and the State level, that want to do it the right way, that care enough to see that it is done; and yet you question whether that is the case, given the results.

As the chairman said, we could work on the fringes of the law, and I suppose bring about some improvements. But the essential basis of what we are trying to accomplish legislatively, is on the books. Obviously there needs to be better enforcement of that.

I am just trying to ask myself the question, should we be looking at this in a different way; is there something radically different that we ought to be doing?

My question is this, to anybody in the panel that wants to answer it, if you could be king for a day here and start over, how would you design the system; what would you do different?

If we could start over what kind of system would we put in place?

Mark, do you want to start with that?

Mr. SOLER. Congressman, the juvenile court was created in 1899, and as the Supreme Court said in 1967, it wasn't working. It was a great theory. It was supposed to be a special court for children, and it just didn't work.

The children were getting the worst of both worlds. They weren't getting due process like adults got. They weren't getting treatment to which they were entitled.

I am afraid that my experience is the same as Diane's, that the confidentiality of the juvenile court has often been a cloak of secrecy that has hidden abuse of what is going on.

If I could be king for a day, I would tear down all the signs on the buildings that say, Department of Mental Health, Social Services, and the Juvenile Court. I would train all those people to realize that they are working for children, children who have needs.

I would eliminate all those bureaucratic barriers, and all those walls between those agencies. The reason that a program, like the program in North Carolina that Lenore Behar is going to talk about, is such a successful program is that they have eliminated those barriers.

They are taking children as individuals; seeing to their individual needs; and getting the services that those kids need whether those services are mental health services, special education, counseling, or whatever. It seems to me that is the critical problem.

As I talk to people all over the country—and I do an awful lot of traveling—everybody says exactly the same thing. It is the same thing that the witnesses have said today. The resources, the basic resources are there; they are not being used.

It is those bureaucratic barriers that are cutting off services to individual kids.

Mr. COATS. Anybody else?

Ms. SHUST. I believe that Scotland is looking at eliminating the barriers between the distinction in systems. Their focus is on providing children with the services that they need.

I think that would be ideal if we could develop some kind of system here, because there is an interface of the neglect system, the delinquency system, the mental health system, the educational system, which is unresponsive to kids needs.

Clearly, if I had 17-year-old clients who are functioning at third-grade level, the educational system has not met their needs. If they are in need of special education and they are 15 years old and have never been properly identified or assessed, clearly the system has been failing them as well.

Children have employment needs. All of these systems mesh together, and the problem is that I think we have been looking at children as fitting into little compartments along the way instead of realizing that children have multiple problems, with multiple needs.

Instead of dealing with them as a whole, we have been dealing with them—with little fractions of them at one point, and that is the reason kids slip through the cracks. No one is trying to develop a coordinated system designed to address kids needs.

The mental health system will deal with someone but then they won't address their educational needs. If the educational system deals with someone then they may not be addressing their emotional needs, and the result that you end up with is getting kids who have no real services at all.

Ms. WEINROTH. If I could just illustrate that briefly with a very short anecdote that relates to something that Judy Guttridge said about how she couldn't get help until her kid got into trouble.

This, again, is a somewhat odd perspective on this, but I think it is an example. The example I am about to give is a youngster that I represent in what is called the mental retardation system.

He is a youngster who is mentally retarded. He is about 9 years old. He is cute as a button; and he is sitting in an institutional facility where he is vegetating, in essence, in the District of Columbia.

I requested the neglect system, which is an entirely different system bureaucratically, if I could simply browse through its foster homes—because the MR system had nothing for this child. They say, we don't work with children, we work with adults primarily.

So if you have a mentally retarded child in the mental retardation system, forget it. So I wanted to simply browse through, so to speak, the foster homes in the neglect system to see what was available—because there are many handicapped children in the neglect system and they are not easy to place either, but there are some dedicated foster parents out there who are everything you would hope foster parents would be who do take handicapped kids.

I knew they existed, and I just wanted the opportunity to see if there might be a foster home in the neglect system, someone that I could approach to say, are you interested in taking this child into your home, so we can get him out of this institution. I was turned down flat.

Oh, gee, we are the neglect system, they are the mental retardation system; no, we won't talk to you; we won't have anything to do with you.

Like I said, this is what I mean about something that is a little less dramatic, but it is just pervasive, that kind of daily stupidity. I don't know how you legislate common sense; and I don't know how you legislate compassion—but that kind of daily beating your head against a stone wall to get things for these kids is what we have to contend with.

I do think that the bureaucratic barriers are tremendous. And there simply has to be rationalization of the systems so that services can be provided when they are needed.

Mr. Coats. Patricia.

Ms. Hanges. You are going to get a little practical thing here. What I did in Baltimore County on a lessor level, because I have no regard for bureaucracies whatsoever, because they don't work.

We all know that, OK. And we have got to stop calling it a system. It is not a system; it is a non-system.

You see, you have got to change your vocabulary, then you know automatically it is not going to work and you won't be so darn frustrated, because you know it is not going to work; you expect it not to work.

What we did in Baltimore County, the first thing you have got to do is educate the community. Once you get the community educated, then you can go into the programs. We do everything rear-end backwards in our State.

I am always looking at it and saying, why do they do it like that, it is so crazy. Educate your community; get your community involved, that is what changes things, not dumping $20 million bucks down a toilet where it has already gone and flushing another $20 million after that, before you even know what the community wants.

For God's sake, it's their community. It is their kids. Get them involved. We did this in Baltimore County.

The juvenile justice non-system did not work in Baltimore County, still does not work. So we designed our own. First we educated the community. We got a lot of volunteers.

We got a lot of Federal money, but we used it wisely. The government picked up all our Federal grants that you gave us originally; they were good ones.

We designed all our programs around families, getting the community involved; explaining why we should treat the families the way we did.

Then we did a real interagency approach. Not one of those crummy things you see on paper, that says, oh, we are interagency—well, I never did figure what that meant, because they certainly weren't.

The toughest nut to crack was the school system. Boy, you try to attack a school system and they will beat you into the ground so quick you won't know what hit you.

So you don't attack them. What you have to do is get inside and infiltrate, right—and we had grant, and we got inside the school system. And we started to educate the school system into what we were trying to do, and then they bought into it. But they were the toughest nut.

Social workers, we didn't let them sit in their offices over in social services, no way. I was a cop; our unit was working three shifts; they were going to work three shifts, because as good as I was—and I am good—I was never able to train kids only to commit delinquent acts between 8:00 a.m. and 4:30 p.m.—can you believe that, Congressman—they wouldn't listen to me.

They still did it after 4:30; the little huggers would not cooperate. So what we did was we got the social workers in the police cars, working within our division; that is interagency, that saves money, that saves children. Somebody saying interagency to say it, does not work—so, what you have got to do is education and real interagency, and you will start to crack the nut.

Everybody would like to blow the system up; I get revolutionary at least once a day and want to blow it. The Lieutenant Governor said, why don't you do it, and then we could lock you up and shut you up.

The thing is it—he is running for attorney general now so I better watch myself, he might do it.

Anyhow we know that we cannot do away with the system. We can't do that.

We have got to rebuild what we have. You can't just throw something away.

There are parts of it that are salvagable. But unless you educate the community, have a real interagency approach, you will still have a non-system 10 years from now, like you have got.

Chairman **Miller**. It was Senator Lugar, wasn't it, that when he was mayor tried to make the social services agencies come to the schools, because he said that is where the kids are, at least for 4, 5, or 6 hours——

Ms. **Hanges**. We did it in Baltimore County. You have seen it, their whole attitude changed, because they saw them when we saw them.

Mr. **Coats**. Judy, I will get to you too, because I know you want to say something. We have wonderful monuments that have been built by social service agencies, and a lot of nice offices, a lot of good parking, free parking, coffee, and so forth. And a lot of people want to spend their time in that monument, not out there where those problems are.

Ms. **Hanges**. Do you know where my monument was; we took over an old abandoned school that nobody else wants, we fixed it up with money from CETA hiring delinquent kids that would have gone to an institution, that is what mine is. It is still there, too, I love it.

Mr. **Coats**. Judy.

Ms. GUTTRIDGE. I just think that they should—you are only allowed—I don't know about any other State—but I know at Montrose parents are only allowed 3 hours a week, and that is 3 hours on Sunday.

You don't pick your time; it is from 12:30 to 3:30. If you aren't there between 12:30 and 3:30 on Sunday, you don't see your child.

There are no other hours; there is no time during the week. Three hours out of a whole week you get to see your child.

Mr. COATS. That falls in Pat's point No. 3, design all the programs around families.

Ms. HANGES. That is right.

I filed a complaint just last week on that and as a—well, last year I filed a complaint on the 3 hours; we how get 8 hours off campus, but still only 3 hours visiting. So now I am in the process of asking that we try to make visiting hours during the week so families can get in. But it is a constant filing and grieving, you know, to get it done.

Chairman MILLER. The State of California just passed a law, I think, for children in child-care settings which says you cannot deny the right of the parent to randomly stop in to a child-care center and visit, and see what is going on with your child. But if your child is locked up and you still have an interest, you can't do it.

Mr. COATS. One other question. Why does this system seem to attract such bad people?

You joke about the Lorton work release program. Why in this system are we brutalizing kids. We read about sadism and sexual perversion going on, and beatings of kids, and neglect, and bad treatment, and so forth; is the problem so bad that only a certain kind of people handle it?

I can't imagine that there is somebody up at the top saying, well, let's go out and find the worst characters we can and get them in there to treat the kids. Why do we end up with such people?

Ms. HANGES. There are a lot of good staff; there are a lot of good ones in Montrose, too.

Mr. SOLER. Mr. Coats, I don't think we should tar all the people who work in child-care institutions with a broad brush; I think that is really very inappropriate. I have met hundreds of people like that, and I have done trainings of them.

My experience is that a great number, the great majority, are really very concerned people. I think there is a very sizable minority who are attracted to the idea of lock-up institutions.

They sometimes come from law enforcement backgrounds and are simply carrying through, in the child-care setting, things that they learned as law enforcement. And in law enforcement they were dealing with adult criminals, sometimes very violent criminals, and they are carrying the mindset all the way through. They really have inappropriate attitudes that are basically geared toward punishment and custody.

But the great number of the other people in the system are not adequately trained.

They don't have training when they come into the system; they don't have the right kind of experience; and they don't get the training while they are in the system. So no matter how well they try to act, they don't know what they are doing.

And as Patricia said, you can spend all the money you want, if they don't really know what they are doing.

Mr. **Coats**. So part of it probably goes to the philosophical basis of the directors of the program. And we know that in society that basically two of these may be extreme characterizations, the first being the so-called bleeding hearts who don't want to do anything but cuddle the kids, and second those in society who are saying, no, there are kids who are rotten, you have got to lock them up and teach them how to behave.

So, it is a reflection of those people at the top directing the program; and, that gives you some good programs and some bad programs in terms of how the kids are treated.

Mr. **Soler**. I think that is true. My experience has often been, particularly in filing law suits, that employees from within these systems contact, us, sometimes surreptitiously, to give us all the information we need about what is really going on.

Many of them are horrified at the practices going on in the institution, but they feel powerless to change it. They feel there is no outlet for them to give information and no one who can really get in and take charge.

Mr. **Coats**. But in those systems where the so-called tough discipline or maybe extreme discipline is invoked, is that the result of the fact that those that are in charge of the system believe that is what is best; that is the best way to deal with the problem?

Ms. **Hanges**. We have gone through—I am on my third superintendent now at Montrose. But that is true; it depends on their philosophy a lot of times. Many people come in with that punishment model. Try to change it.

Even the good, well-meaning staff that are not trained, do not have the background, come in there for the right reason, but after a while they get beat down and they start buying into the system.

I have seen that happen many times; they are not strong enough to fight the system.

I agree, we have some good, super good staff that would call me at home and tell me things, because they are afraid to get in the middle; they need their jobs.

The other point I made before, and I want to reiterate it, until we upgrade this to child-care worker, this is work, you do not treat these children the way you treat your own children in many instances, because some people don't know how to treat their own children. So that can't be a criteria for hiring them.

It has to be that they should be trained. And like say, I have to emphasize, it is work. You have to work at bringing these children around and loving them.

Until we do that, until we make that an important position—you see, in our society, first of all—to get back, Congressman—children may be important to you and I, and the people on this panel, obviously, but they aren't to the majority of the people; we must remember that.

When our States' designed these positions, and they start saying, let's downgrade it, instead of upgrading it for Heaven's sake, for the type children we have, we can realize the emphasis is not on recruiting high-quality people in this position; and it should be.

I will give you a quick example. This year in the legislature we went and we fought, all advocates, for more money. We insisted they not be put in the State merit system; we wanted that changed.

The unions almost killed us. We expect to get run over by a union truck one day for that.

What we did was we got people hired as an experiment that had high education levels, and were screened, and these people are working for 1 year in the cottages, and there is a difference in the way they approach and treat the children, it is just something to watch. To evaluate.

What happens, though, because they are by their self, and they are in a minority, they become overwhelmed with the institutional setting.

Part of it is recruiting good people, upgrading the position to a position of importance, which it should be.

Ms. **Weinroth**. If I could add one thing to that?

In my experience the hands-on people are underpaid. Again, it is not so much that we need more money; it is that it has to be spent more intelligently. The people who really work with the kids are underpaid.

What happens, as you said in connection with the free parking spaces, is that the pyramid narrows, and the incomes go up. Those people don't have any hands-on responsibility. They get very entrenched; they get very institutionally loyal.

They get very politically connected; it becomes just a job. It is a living; and it is a very nice living. All they are concerned about is protecting their turf.

There is a woman in the social services system in the District of Columbia, who, as I understand it, makes upwards of $40,000 a year for, as best as I can tell, shoving social workers' reports into court jackets. That is not a prudent expenditure of money.

What I could do with that $40,000 for my clients, just boggles my imagination. So I think, again, it is not just a matter of more money, but how it is spent.

If you will pardon the expression, the bureaucrats have to let go of it, and it has got to be put into direct services.

We don't necessarily need another study, more studies. For example my testimony mentions that fact that there has been no foster care recruitment in the District of Columbia since I have been doing this work. The first public service announcement, anywhere, I have seen on television, or in the newspaper, or in any other way, was in the past 2 months, at one o'clock in the morning, in the middle of the late movie.

Some committee was formed, a blue-ribbon committee, about 2 years ago to study the question of recruitment; I think they got funding from somewhere to study it.

They don't have to pay to study it; they can just ask me or anyone familiar with the system. I will tell them what to do.

I would tell them to send PSA's to the Washington Post, I will tell them to go talk to church groups. It is an extraordinary waste of money for something—it's just extraordinary.

They have got to spend the money more intelligently.

Ms. HANGES. But to get back to you. I wrote an article—and they thought it was a joke, but it wasn't a joke—telling them how they could upgrade these positions.

What they have to do is to take all the bureaucrats that sit in juvenile services—and I am not too sure what all of them are doing, but they have got beautiful titles—and 1 week out of the year, put them in the cottages, and make them work a tour of duty.

You will see that cottage position upgraded. You will see those people get the support they should get.

See, they sit there, they never come in the cottages, never come in those cottages, and they make all these decisions. Make them work 8 hours even, the system would change.

You know, I said a week, but 8 hours with those kids will do it to you. Eight hours in those cottages and that position will be upgraded.

I think that is what should be done to all people who make policy decisions. I don't see how you can make policy decisions when you don't even know what you are deciding about.

Chairman MILLER. Mrs. Johnson

Mrs. JOHNSON. Thank you all for your testimony, which has been most interesting and moving.

As a State Senator 10 years ago, I served on an oversight committee that investigated how Connecticut managed all of its juvenile programs, particularly those in the neglect and delinquent systems. Perhaps, I am naive, but we seemed to be light years ahead of the situations that you are reporting.

For example, in terms of getting families involved, and coordinating services—one of the most successful approaches has been juvenile review boards. When a child does get in trouble with the police, everybody gets together, the family, the social workers, the hospital, the school. We tried to legislate the juvenile review boards and put them in law; it didn't work.

We were unable to define such fundamentals as rights, so we finally abandoned that and have allowed this institution to work on its own.

Sister, I really hear you when you say, government hasn't been very good addressing these problems. We have a beautiful long standing law on the book, and we still see incredible variation among States.

Crisis intervention teams are finding that foster-care dollars are poorly spent so children are returned to the same situations they were removed from. Whereas if agencies were providing parent aid and in-home services they could deal more effectively with the problems that foster care would have to deal with anyway without the cost to the family and the discouragement of failure.

I agree with you when you say we have got to have a system that is less agency oriented, and more family oriented, and more community oriented, more service oriented. You are absolutely right.

I wonder if any of you are aware, of any difference in children's services in States that have a department of children/youth services—as Connecticut does now in terms of the separation between mental health and welfare. Are there fewer bureaucratic barriers when mental health and welfare departments are consolidated under one agency? Can anyone comment on that?

Mr. SOLER. I don't know that there are so many States that have unified systems. There are States with statewide agencies. Kentucky has a statewide agency responsible for all foster care in the State. The problem is that——

Mrs. JOHNSON. Is that just foster care?

Mr. SOLER. It is child welfare services.

The problem is that Kentucky is where that horrible example of the special needs child, who was neglected for 8 years and almost starved to death, occurred. That was a serious problem.

I do know the State of Delaware has just initiated a new office of childrens' services, a totally unified system. They are very happy with what is going on there.

So I don't know if there has been any research across the United States, but at least some States that have worked with unified services have had much better results.

Mrs. JOHNSON. Thank you, I think that is certainly one direction we ought to explore.

I would like to recommend to my colleagues on the committee that we consider serving as an oversight committee for the District of Columbia, and that we hold joint hearings with the committee on the District of Columbia with the same kind of rigorous detailed fashion that some of us had as State legislators. In January we might do the kind of methodical investigation and series of hearings that would enable us to evaluate the experience of other States, to see to create an integrated system, and to overcome bureaucratic barriers.

It is not a project that can be undertaken lightly, nor one that would require less than a year or two commitment in order to follow through and make the changes. One of the problems of making policy from this level is that it is hard to respond to that small town in Montana, where the child may be being abused.

We have to be very thoughtful in how we leverage our responsibility in in the real world. It is fair to say to that to this point, we have failed to do that effectively, although we have certainly invited a response.

For instance, in Connecticut, one of our problems is that our ability to detain a child in trouble is inadequate. Approved legislation in response to Federal actions saying that we couldn't detain children, and now we have no way of intervening in a situation where a child is truant from school, away from home, and out in the streets. Nobody has the power to intervene, to get control of that child. For the parents have lost control.

So we have through Federal law gone too far with our concern for the child's rights by prohibiting people and communities to intervene at a time when it would be really useful.

Mr. SOLER. Mrs. Johnson, I have had experience with that problem around the country, too. My overwhelming experience has been that that problem arises because that is defined as a juvenile correctional problem. It is defined as a detention and arrest problem, rather than a social services or mental health problem.

Many of those children are coming from families that are in crisis. They are being abused in home, and girls are running away, or there are kinds of problems that are going in on those homes; and if you think of it as a social services problem and intervene in that way, you can solve many of those problems and not worry about having to locking those kids up.

Ms. **Shust**. Mrs. Johnson, may I respond the issue of congressional oversight of the District?

In the spring of 1985, at Congressman McKinney's request, he requested that the GAO investigate the special education services being provided to children incarcerated at the institutions that I work at.

The GAO found that, in fact, absolutely no special education was being provided to these children to these children at all, despite the fact that the District of Columbia, under 94-142, was receiving Federal funds for these programs that, in fact, the school district was receiving funds for these children. But my clients were receiving no special education at all.

They were not being diagnosed. They were not receiving any kinds of services. Children who need speech therapy, it was just tough luck, none was provided for them.

Chairman **Miller**. That is not just——

Ms. **Shust**. It is a national problem; it is not just occurring in the District of Columbia.

I am pleased to report that because of the GAO's investigation there has been some progress along the way toward correcting that problem. I applaud your interest in the juvenile justice system and children's issues, and I think that it is important to recognize that the problems that we from the District have discussed, are not merely local problems but are national problems affecting every jurisdiction.

Ms. **Weinroth**. I would like to second what Diane says; and I think it would not only be an incredibly effective way of remediating problems here in the District, but would be a very appropriate mechanism for providing a model in the Nation's Capital for what other States and jurisdictions ought to be doing.

As we have said, we do look for leverage and ways to affect the funding so that people will sit up and take notice, ways to focus the spotlight on the problems, so people will sit up and take notice. And it does make a difference when the spotlight is focused and hearings are held, things happen.

Mrs. **Johnson**. Thank you very much all of you, for your fine testimony this morning.

Chairman **Miller**. Thank you; you guys have been great. I really appreciate it.

Unfortunately, it is a very sad story that you have related to us, but it clearly is one that needs to take our attention.

When I think of all the misplaced energy that we have spent in the last couple of weeks. If some of our local officials spent more energy on trying to get funding for juvenile hall as opposed to the new stadium, maybe they would have been a lot better off.

More children have died in this system this year than have died from cocaine, and we still don't provide services for prevention. We have really got to take a look at the hundreds of thousands of children that encounter this system, who often turn out worse as a result.

I think you have struck a responsive cord here. Congressman Coats and I, and Congresswoman Johnson, were talking about whether we can get involved in the District of Columbia. Maybe we should work to make this a model or try to make this a model, because it is clear that when the system is left to itself it sinks to its lowest level.

It certainly is not one that we can point with pride in this country, in terms of the treatment of these children, and especially, especially when people look at the age of the children that are being encountered here; you can't justify it.

All of our harsh notions about what to do with kids that terrorize the neighborhood, that is not the kids we are talking about here in any great numbers. That in someways, I guess, is an easier problem than this one.

Thank you very much, we have obviously spent a lot of time with this first panel, but I think it was very, very helpful in terms laying the issue out for members of the committee.

Thank you.

Ms. HANGES. Thank you.

Chairman MILLER. The next panel that we will hear from will be made up of Mr. William Aldrich, who is audit manager for the Office of the Auditor General, State of California; Robert Burton, president and chairman of the board of VisionQuest, Tucson, AZ; Nellie Hutchison, who is the director of the Governor's Commission for Children and Youth, Jackson, MS; and Michael Woodruff, who is the director of the Center for Law and Religious Freedom, Christian Legal Society, Merrifield, VA.

William Aldrich.

STATEMENT OF WILLIAM S. ALDRICH, AUDIT MANAGER, OFFICE OF THE AUDITOR GENERAL, STATE OF CALIFORNIA

Mr. ALDRICH. Good morning, Mr. Chairman.

Chairman MILLER. Good morning, welcome to the committee.

Mr. ALDRICH. Thank you.

I am William Aldrich, I am an audit manager with the Office of the Audit General, State of California. I am here to present our report which was issued in June of this year, entitled, "California Needs Better Control of Out-of-State Placements."

I would like to enter a copy for the record. I have additional copies with me.

Chairman MILLER. Without objection it will be made part of the record of this hearing.

[Report by the Auditor General of California entitled "California Needs Better Control Over the Out-of-State Placement of Delinquent Minors" dated June 1986 is retained in the committee files.]

Mr. ALDRICH. My testimony will essentially paraphrase the executive summary of the report. I would like to offer a few clarifying remarks as to how we got into this.

We conducted this review to answer questions from our legislature concerning the number of youths being placed outside the State of California, the amount of State funds being expended on those youths, and the appropriateness of those expenditures.

We were asked, specifically, to concentrate on VisionQuest, an Arizona-based firm. However, we conducted a statewide survey to find out how many delinquent youths were being placed in what agencies.

The first thing we found was that since about 1981, California has spent over $15 million on the placement of youths outside the State of California. These placements were primarily in two agencies.

The Right-of-Passage, a Nevada facility, in which we spent in the neighborhood of $2.7 million; and VisionQuest, where we spent over $12.5 million, in Arizona.

I would like to clarify at this point that Right-of-Passage expenditures consisted of Federal, State, and county funds; VisionQuest was all State and county funds, because VisionQuest is a for-profit facility, and Federal funds are not allowed.

The primary finding of our report is that the State needs better control over the funds spent in placing kids out-of-state. Now, California has a State law which says that in order for facilities to receive foster care funds, they must be licensed.

From about May 1981, until December 1984, a number of California youths were in VisionQuest facilities that were not licensed. Specifically, a wilderness camp in Silver City, NM that was not licensed by the State of New Mexico, or Arizona and, of course, not licensed by California.

In addition to that since 1984, the State of Arizona, which we have interstate compact agreements with for placement of kids, has signed the interestate placement form stating that Arizona does not license VisionQuest facilities when they are outside the State.

One of VisionQuest's primary modes of treatment is a wagon train which travels throughout a number of States, so we think that there are some inappropriate expenditure of funds while the kids on the wagon train outside the State of Arizona.

In addition, prior to 1985, when Arizona licensed the wagon train within the State of Arizona, there is some question as to whether kids on the wagon train in Arizona were in licensed facilities. So there is a period of time when we say that those expenditures were questionable.

We say it is questionable because there were some statements made by the some officials in Arizona which indicated that some officials considered the wagon train licensed.

In addition, we found that approximately $75,000 of funds were expended on youths that were in VisionQuest after the age of 18, that were not receiving the educational requirements that are required by our State law, which says that they should be in an education program that they can complete by age 19.

In addition to that, our State department of social services has not conducted audits of VisionQuest, to determine if rates are reasonable, similar to those allowed for California facilities. We have a State law which indicates that the State will pay the rates authorized by another State for an out-of-State facility for youth who would have otherwise gone to the California Youth Authority. We don't think that it is clear which minors qualify for their rates—in addition, the State has the authority to audit and to set rates, so there is kind of a conflict of our own laws about that. So we recommend to the State agency that they at least conduct audits to see if these rates are reasonable, and if necessary, recommend legislation to change the law.

Our second area deals with monitoring. Facilities inside the State of the California, are licensed by the department of social services and inspected by the department on an annual basis. The department can follow up on any complaint that is received.

There is a coordinated system between the licensing agency, the department, and the placement agencies, such as probational departments to help protect the health and safety of the kids.

Outside of the State, of course, the State agency does not have this authority because it doesn't have the licensing sanctions. So what we have is that individual counties contract with VisionQuest using different types of contract documents, some requires education, others don't.

Some require that they report health and safety violations, or health and safety problems, as required by our Title 22, Administrative Code, others do not. So we have a system where the State has not insured that there is consistent monitoring of youth placed out-of-State.

Essentially we have a situation where there is inadequate control over the funds for the kids being placed out-of-state, and there are inadequate systems to monitor the health and safety of the kids out-of-State.

Finally, we make a series of specific recommendations to our department of social services to, No. 1, make sure that they don't pay for out-of-state placements in agencies that are not licensed by either the State of California or some State.

That they conduct sufficient audits to see what we are paying for and that those rates are reasonable. And that they establish guidelines for the counties in establishing contracts with out-of-State facilities.

I might say, that our report contains responses from our department of social services. It contains a response from VisionQuest; and I think VisionQuest essentially agrees with our basic recommendations.

It also contains responses from one of the counties, Alameda who was one of the primary counties involved in placing kids out-of-state.

I would like to close with that, and entertain any questions that you may have at this point, or we can proceed on with Mr. Burton.

Chairman MILLER. Thank you; we will hear first from the other members of the panel, Mr. Aldrich.

Mr. Burton?

STATEMENT OF ROBERT BURTON, RLB PRESIDENT AND CHAIRMAN OF THE BOARD, VISIONQUEST, TUCSON, AZ

Mr. BURTON. Thank you, Mr. Chairman. My name is Bob Burton and I am director of VisionQuest.

When I was a senior in college I went home one weekend after I had just missed becoming captain of the football team by a vote. I thought my life had been shattered.

I sat down with my father, who said, "I know this is probably the first failure in your life, maybe it is time I should tell you some things."

He started talking to me about being put in a reform school when he was 12-years-old for being in a fight with his step-father. I said, "Dad, why didn't you tell me?"

He said,

> Well, I had been dishonored by that. I learned real quick when I was young that not having a father, and being dishonored made it hard for me to face certain issues in my life.
>
> The one thing I did do was learn to be a father. The first rule I learned from that was protect children from their own innocence. So that is why I didn't tell you.

From that day forward, I became very involved in the criminal justice system in this country. I started working—I became a Vista worker in between football seasons, when I played football. I went to the Indian Reservations around the country and started seeing kids that were coming out of Federal institutions.

I was the one that worked with them because I was larger than most, and these kids were angry and hostile. That is usually the limit that people deal with when they deal with troubled kids. They will deal with them until they get angry and then they will walk away from them.

I went back to my home State of Delaware and I became a caseworker in a boys reform school, and worked there for several years. And all the testimony that was given before about people who come into and work in the criminal justice system, we have seen that there is a professional, paraprofessional model that we are stuck with in our society. If you wear a tie and sit behind a desk, you are professional. But if you work with a kid and you are on the line with them, you are a paraprofessional, often the matronly, child care worker.

I soon worked through the ranks and became the assistant superintendent of training schools. Then there was a gubernatorial change; my boss was fired, for supposedly running a brutal institution. I went from Delaware to Las Vegas, NV, where I became the director of a detention center.

I was anxious to get to the beginning of the system. I had seen the kids that were the end of the system, and I saw that the majority that were there had never even committed a crime. But because of things that had gone on in their families, and the anger and hostility that had been built up, and things that had happened to them before they were even seven years old, they started acting out on society when they got to be 10, 11, 12, and 14 years old. Then they were labeled delinquent, and put into institutions.

What astounded me was that their role models were not the athletes who wanted to work with them, or the child-care workers that loved them, or the social workers who empathized with them, but they were the other kids, the bigger, the tougher, the angrier, and the more hostile kids.

I saw a system that was based on a victim/predator theme, the kid came in a victim and he left a predator.

When I ran this detention center I went from a facility that was wracked with escapes and riots, so they called on a person who had some experience. I started with that facility in 1969, and left in

1973. The kids were allowed out of their room for 2 hours a day when I got there; there were 75 kids locked in that facility.

The day I left there were 36 kids in placement and we only locked the doors from 11 at night to 7 in the morning. I locked the doors to protect the kids from the staff. I put the inadequate and inept staff that were working in the facility on the night shift to do the laundry.

But they often are political appointees and you couldn't fire them. It took an act of Congress to fire somebody. They were under a merit system and they were union protected.

In 1971, I went to a world seminar on corrections. I was honored; I felt like I had made the All American Team. I got there and I found out everybody was as dumb as I was.

There was nobody doing anything. They were only theorizing about what they should do in the 21st century of corrections.

I stumbled across, that day, a thing that made sense to me. Because somebody said that if you are ever going take on a system, never take it on with one head, take it on with two or three heads.

What made sense to me was there is so much money being spent in this field, why don't we get competitive with that dollar? Why don't we do something with three heads and get it directed and focused?

So what I did, in 1973 was start a for-profit corporation, outside Government that took the kind of kids that traditionally wind up in incarcerated situations; I put a little competition in the field.

I have been doing this for 14 years and I sincerely beliveve that we have been striving toward a viable alternative for the 21st century for dealing with troubled children. And the struggle was based on my father's comment, I was not going to dishonor children.

I started a system that was based on honor; based on giving a child a sense of who he is, through the Native American rite of passage called, the VisionQuest. And that was a transition from childhood to adulthood, when a child was taken out in the wilderness and given some independence, as well as the responsibility to make certain decisions. He then went back to the elders of his tribe and talked about the gift of adulthood that he earned by being in the wilderness.

We combined that concept with outward bound-type programs; mountaineering, backpacking, and mountain climbing. We did 20- to 30-day wilderness experiences—and then our concept was to return the kid to their own homes, because that is where the issues were.

We saw the issues being abandonment, abuse, physical emotional and sexual, and lack of boundaries. They were the issues that were common to both the hard-core chronic offender in this country and to the status offender at the beginning of the system.

It seems as if kids get caught in the revolving door syndrome and then down-spiral in the correction system. It is like heroin, there is one way in, and no way out after you have first been exposed to it, except down.

Presently, we deal with 661 children, with a staff of 600 employees in licensed programs in the States of Arizona, Pennsylvania, New Jersey, Florida, and Utah. Utah licensed our wagon trains for traveling through their State, which is a brilliant idea; I wish more States would do it.

We took kids that have had 14 or 15 prior police contacts, and have had an average of five prior placements before they come to us. We find our first several months is spent unteaching some of the lessons that they have learned in the institutions they have been placed in.

These lessons were not taught by adult role models rather, they were learned from the other kids that were in there. The subculture usually runs the institution.

I was a linebacker in college and I felt as if I could go into any scrap and survive the situation. The institutions that I worked in were very combative. I don't know whether the combativeness was derived from the anger of the children, or because of the frustration inherent in such facilities.

What I saw was a Lord of the Flies mentality in there. Because there was a fence between me and the child. I could not parent him. I could only be the warden with them being the wards; and it was a we/they.

When I went outside the system and started competing with the dollars that are being spent in the system, all of a sudden it became us. It became a family setting and it became a thing that is based on respect; respect being the medium of exchange.

The children that I am dealing with are supposedly the toughest kids in the country. There are probably 10,000 police contacts, represented by the group of kids I have right now. But I don't find them that way.

I find them to be very honorable. I find them to be very sincere, and very confused about what is going on with their families.

With a little clarification about what is going on with their families, all of sudden there is a relief, and all of sudden they take the responsibility of parenting. They parent themselves.

The day I left the institution was the day that somebody called and said there was a 200-pound black kid in "receiving", tearing up the office; get in here quick.

I ran with three other men, and it took me 5 minutes to get that kid 50 feet to a holding cell. He ripped my shirt; we were on the ground; and somebody was yelling for mace. We finally got him under control—a big, strong kid—we got him in the cell.

And after walking away, walking back to the quiet room, or the reception room, the mother was standing there, and I said, "has he ever been in trouble before?"

She said, no, he had never been in trouble before. So I walked back to the cell and I opened the door and the kid finally backed off, sat down, and I said, why are you here? He said, I won't go to church.

I said, what? I just had to fight you this far because you won't go to church.

I went back to the receiving room where the mother was and I said, why is he here? She said, he won't go to church.

I said, "How did you get him here?" She said, "Well, I told him to get in the car."

I said, "Lady, did you see what happened between me and him in that institution?" She said, "Well, you are the State, you are supposed to help me, and I want this boy to go to church; he doesn't want to go to church."

I went and unlocked the door and took him back down to the reception room and sat down there, and I realized that is what is going on in our society. Parents who need help, they think the State can provide it.

You walk in and all of a sudden it all goes crazy, because the kid who walked with his mother to that door, and then turned around and said, "You ain't taking me in there"—not to his mother, but to the system—and all of a sudden a war started.

People wanted to charge him for destruction of county property because he broke some things as he was clearing off desks and everything. I got the situation to where he could be released and sent to where he probably needed to go where there was somebody to talk to.

That is indicative of what happens in our institutions. It starts out as some insignificant thing and it turns out an issue. By the time the kid has been in a system for a while, and he leaves the second or third time; he is out stealing because he's hedonistic and wants it now, because he has seen it on television. I saw the kids in that system. Their models were the big, tougher kids.

Starting a concept like VisionQuest has really been difficult because it steps in everybody's territory as evidenced by the report you just heard from the auditor general of California.

In 1980, after we had been in operation for 6 or 7 years, we decided that we were going to do this for 1,000 children in this country. We decided to go to California and Pennsylvania.

In 1981, we were licensed in Pennsylvania. We went into California and said we would like to be licensed and they said, well, you don't fit. You don't fit any models that we have.

There are no existing laws that allow organizations to do something without a brick and mortar situation. If you lock that kid up then you can get licensed in this state.

I refused to do that. The majority of the kids in this country—and I understand that in locked facilities there are probably 100,000 to 125,000 kids that are in locked facilities—the majority of those kids don't need to be there if somebody will face them, if somebody will parent them, or somebody will father them.

The majority of these kids—only 12 percent of the kids I have, have natural fathers that they know. They push past their mothers' influence and they are looking for their own image.

Unfortunately, we give them the negative image, the pimp on the street corner, or somebody who is doing something wrong, or the negative father who is the police officer the judge who has to control them, or the warden who puts them in the institution. These kids are capable and willing to figure out what is going on in their lives if you face them with it.

Unfortunately, a system doesn't have the time, or it is over powered or over pressured. I am not saying that this VisionQuest idea is an answer; it is a direction.

But what the answer should be is that the dollar is there. Religious, public, and private agencies should compete for that dollar, and you will probably get a better service. The 100,000 are locked up today because everybody feels as if they are running havoc in communities. They will be released in 6, 7 or 8 months, and what they have learned in that institution, along with the anger and the hostility that gets suppressed inside when they are sitting in these institutions, gets taken out on the street.

When aggression and confusion are dealt with and treated face-to-face, you give children a chance to go past their confusion and become productive citizens in this country.

The Rand study is going to come out in November, and it is going to demonstrate that VisionQuest is effective and has success rate that is different than a comparable group that was locked up. It is probably the first time a sociologist or criminologist have seen anything that has been successful.

I know the Rand people are concerned about how they are going to be besieged about whether their facts were right or what is their data base and that sort of thing. VisionQuest is not a cure-all. I think the study will show that there is some hope in this field that something works.

It doesn't have to necessarily be done by the State. It should be done by a myriad of people who are interested. Taking the entrepreneural approach, which I feel our country is based on—we have gotten past our own minor pettiness by being able to compete for the dollar that is spent.

I feel, as I heard you say, Mr. Miller, that to lock a kid up in an institution costs $60,000. I know the cost of $42,000 was said here today.

I know to lock a child up in this country on the East Coast costs an incredible amount of money. In California they say it only costs $27,000 a year, but they don't add in the buildings, they don't add in the transportation costs, they don't add in the educational costs, but when you put all those costs together it is between $40,000 and $60,000.

A State like Pennsylvania that has 12 million people in it has 460 secure beds. California has 25 million population and they have close to 8,000 secure beds.

There is something wrong in a society that will repress it strongest natural resource, children. Maybe that would be an explanation for people to understand why it is hard to get licensed and hard to be monitored at times.

In response to one issue of the report, probation monitored our children monthly while they were placed there. The social service department didn't and that is where we agreed with what the report was saying.

Thank you.

[Prepared statement of Bob Burton follows:]

PREPARED STATEMENT OF BOB BURTON, FOUNDER AND CHIEF EXECUTIVE OFFICER OF VISIONQUEST

Mr. Chairman, and members of the Committee, it is a particular honor for me to speak today on one of the most important issues facing our country; how we deal with our troubled children. It is to the struggle and hope of these children that I am committed.

My name is Bob Burton and I am founder and Chief Executive Officer of VisionQuest, an alternative to state institutional care for seriously troubled adolescents.

I began VisionQuest after an eight-year career in corrections that began as a VISTA volunteer working with returning federal parolees on the Crow, Shoshone and Piute Indian reservations in Nevada and Montana. In the 1960's, I worked in Delaware's correctional institutions, first as a caseworker, later as supervisor of aftercare and finally as Assistant Superintendent of Training Schools. I then moved on to run the Detention Center in Las Vegas, Nevada.

I soon started wondering why the kid who ended up in these institutions was different. I found that he was usually afraid of himself and so angry that the only thing that would stop him was a locked door. He had been suspended from school, he had run away from home, he had been banished from his community and none of his problems were dealt with except with a barbed wire fence or some kind of psychotropic drug.

I began to see what institutionalizing these children was doing to them. It was breeding dependence on drugs and walls instead of promoting self-control, providing more sophisticated offenders as role models instead of positive adults, and isolating kids with problems instead of working through their issues in a supportive manner.

It became clear to me that the issues going on in the adolescent's family explained a significant portion of his delinquent behavior. Incarcerating the child who was acting out the family dysfunction at times gave the family an "out" but it did not encourage the family to change. In detention halls and "lock-ups", where the child's role models were the older, more sophisticated offenders, the child began to identify with the culture of the institution, and eventually returned to his family with a poorer self-image than when he had left. The parents generally received no help in clarifying the confusion in the home which further insured that trouble would continue, if not escalate.

I soon realized that the system was breeding more problems than it was solving. I attended conferences and symposiums and heard all the great ideas for corrections of the future. There came a point in my career when I decided either to get out of the field or do something about it. I chose to start VisionQuest.

In 1973, using my retirement fund from state employment, I began VisionQuest with the premise that children and their families needed help, not punishment, and reunification, not alienation. From the initial six youths placed to the current 660 placements and 600 staff members, we have gained 13 years of experience dealing with thousands of children, sifting through the layers of excuses, labels and blame to get to the issue between kids and their families.

By the time children are placed in the care, control, and physical custody of VisionQuest by the courts, they have become part of our juvenile justice system. Every juvenile court judge who places kids with VisionQuest is faced with the same dilemma. Delinquent children who come before them have committed a crime and are deserving of the consequences yet they are in fact children still capable of change.

There are usually alternatives available for the less-hardened delinquents. However, alternatives for the hard-core, predatory, chronic recidivists rarely exist. Therefore, what we find in this nation are large state-run institutions where these children are sent by the thousands. They are sent there without real discrimination because the judges have no alternatives. Communities get so accustomed to sending children to these institutions that the notion there are alternatives becomes quite foreign.

Youngsters are placed with VisionQuest as an alternative to commitment to either mental health or correctional facilities. Primarily male, (15% of our placement are girls), these youths enter VisionQuest with an average of 14 prior police contacts and five prior placements. Fifty percent or more are minority youth and only 14% have both natural parents at home. Most placements are immature, acting-out, confused kids who display a variety of behaviors labeled "conduct", "behavior" or "personality" disorders.

The concept of the "visionquest" is an ancient one, arising out of the culture of the American Plains Indians, who sent adolescents of their tribes into the wilderness to learn self-sufficiency and to seek a vision, then rewarded the children with tribal recognition of their adulthood. As a symbolic means of earning adulthood, children in VisionQuest complete programs which may include a cross-country wagon train; an impact camp that teaches physical fitness, mountaineering and outdoor skills; long distance bicycling trips or sailing as crew on an ocean-going vessel, the New Way. Each one of these programs becomes a moving community where kids and staff work alongside each other to get their jobs done: moving camp, caring for animals and equipment, attending school and dealing with the issues as they arise. The warden-ward dichotomy does not exist.

In his report for the California Assembly in 1983, Peter Greenwood of the Rand Corporation described this crucial difference between VisionQuest and the traditional institutional setting: "In the usual institutions, most of a juvenile's interactions are with other wards. Interaction with adults is limited, highly regimented, and based on well-defined rules. In VisionQuest, the interactions between juveniles and staff are much more frequent, varied, and intimate. They all live together in one small camp. The staff are physically present for five days out of every seven--24 hours a day. They eat, bathe, and work together, and share the same problems when they are on the road. The staff are just as cut off from family and friends as the juveniles. These conditions inspire a degree of intimacy, trust, and mutual respect that goes far beyond that found in traditional institutions. In fact, the VisionQuest groups appear to function very much like a family, including both boys and girls of varied capacity, and men and women on the staff. The staff treat youths as if they are part of a family with the same degree of openness, affection, touching, and discipline as one would see in a large family group."

In traditional institutions the youngster is protected from the consequences of his actions; he may lose time, have points deducted or be isolated. Such actions have little effect on the wards of an institution who view it as part of "the game." Greenwood observes, "The VisionQuest youths have very few arbitrary rules or duties imposed on them, such as making their beds up neatly, or stowing their gear in a particular fashion, or marching to classes or meals. Most of the rules and duties have a clear connection to their survival and safety. Therefore, a youth who breaks a rule is not seen by his companions as a tin hero who has thumbed his nose at the system, but as a clod who is making life harder for himself or for the rest of the camp...under these conditions, troublemakers are not looked on as heroes."

VisionQuest staff do not let kids slide. While their parents receive counseling at home, issues are dealt with as they arise with the youngsters in the program. Staff constantly work at showing the youths how to turn negative situations into positive ones giving some clarity to the confusion of anger and hurt.

VisionQuest fits into the juvenile justice system in a very disquieting way. With new ideas, enthusiasm and a confidence that has offended many in the vast bureaucracies of state and local government, VisionQuest raised its own share of controversy in a field that breeds controversy. After 13 years we feel we are the most studied child care agency on earth. We have played host to documentary, news, and investigative reporters from around the world. We have been studied by research teams, foreign dignitaries, and state commissions. We are routinely evaluated by various state licensing agencies. On any given day, VisionQuest may be visited by 3 - 5 probation officer/caseworkers from differing jurisdictions who interview their children. Parents are encouraged to visit and they do.

We have many who support VisionQuest: Judge Robert J. O'Neill of the San Diego County Superior Court explains, "The bottom line is that every observer who has gone to view VisionQuest with no axe to grind has come back a supporter. This is true of medical professionals and criminal justice professionals. VisionQuest is different. It does create problems for bureaucracy which does not tolerate creativity well. But it does more than any other program I have seen to approach the goals I have for the rehabilitation of delinquent youths."

Many wonder, what keeps VisionQuest going? The answer is obvious to those who have taken the time to meet VisionQuest's Senior Staff. These are the people who operate our many programs and who have insured a consistent approach to the problem. Representing these remarkable people, I have come to Congress to ask you as the leaders of this nation to look at the number of kids incarcerated in this country, the amount of money being spent to build these institutions and the dependency that the system creates.

There are too many children in jail and most need not be there. The lesson of VisionQuest is that it is possible to incapacitate and treat chronic juvenile offenders without incarcerating or hospitalizing them. When VisionQuest began taking kids from Philadelphia's inner city, the certification rate to adult court dropped dramatically and the need to build new institutional beds was lessened.

It is possible to work with these kids without the psychotropic medication, physical restraints and isolation that are all too common in incarcerated settings. The sense of dishonor fostered in these institutions does little to build a positive self-concept. We must encourage, not discourage, the development of a blend of public, private and religious programs that honor children. VisionQuest is not "the answer" but we are certainly a direction.

The key to any approach dealing with these youths is to understand the issues of the family. We must remember that these young criminals are also children. Abandonment, abuse and lack of control are frequently evident in the families that produce these children. Adults who work with these kids at VisionQuest are told that whatever their job, they must see themselves as a "parent" first. Most children at VisionQuest come from families where the natural father is gone. Most of the young men in VisionQuest have pushed past the control of their mother and are looking for their own image. If we don't provide a positive father, these youngsters will find a negative one.

The dysfunctional American family is creating problems for our society. We believe that these families can be worked with. Many parents have been the victims of abuse and neglect themselves and have no internal resources with which to cope. These families, more often than not, welcome help with child rearing. In the words of one parent in a letter to us, "I think I have learned more from VisionQuest than has our son. The support from other parents was unbelievable."

Regardless of the conditions of the home and the planning of professionals most youngsters eventually go home. VisionQuest gives the child the understanding that he may have to look to the parent inside himself. The question to a child "What kind of a parent are you going to be?" must be asked for him to understand that he has the ability to stop the cycle of abuse.

Within traditional institutional walls, these issues are seldom approached. The subculture of the institution influences the youngsters in their experimentation with alcohol, drugs and sex. These and other developmental issues should be influenced by the family and, when there is no family available, by dedicated adults who create a family like setting where peer pressure is positively channeled.

We have seen hope in the young "throwaways" of today's hurried culture who have made serious changes in their months with VisionQuest. For a year, they have gained from experiencing a positive environment where they learn how to work, go to school take care of animals, experience nature, and participate in a positive peer group. They leave self-disciplined and have a certain confidence in dealing with people. Where we are most successful is when we have touched the family issue, when we have clarified the issues of abuse, abandonment and lack of control.

Many parents and former youths have written to VisionQuest about the changes they have seen or made. The mother of a young chronic offender with a history of attempted burglary, forgery, substance abuse, wrote:

> "Seeing my son achieve self-confidence, self-respect, self-discipline, and seeing his reactions to the VisionQuest staff when they've confronted him and to my concerns, he finally has respect for other people. (He was lacking in all those areas in the past.) He also seems t have a new sense of direction for the rest of his life.
>
> It is my point of view, and that of others, that VisionQuest is not a depository for bad kids. Kids are placed there but there is a difference. VisionQuest gives kids a chance, a chance to change with guidance in the right direction. The kids aren't placed behind bars and walls with nothing to do but talk to other kids, those which will probably never be out of the system. Kids in VisionQuest are taught not only to face up to

what they have done but also up to the reasons why they did what they did. They are given chances to feel proud of themselves by VisionQuest's policy of issueing jobs and/or privileges for good behavior, giving goals to achieve (both physical and emotional), and acknowledging anything that is achieved as a reward.

I just wish I could really put into words exactly what this program has done for my peace of mind and for the life of my child. I wish you could really know what it is like to finally have hope for a child's life over which I had no control. . . I'm only glad that it was VisionQuest that influenced him (what he was getting at Juvenile Hall and Campo was not good influence). With VisionQuest, he has no idle time to get into trouble or to talk to other kids to learn how to do the same crimes a little better next time. He eats good food (no sugar and no salt), exercises regularly, and is being taught a set of values by a group of people (the VisionQuest staff) that actually seem to care. The staff goes through everything with the kids; exercises with them, works with them, laughs with them, cries with them, and spends time with them. They always seem to try to make the child think, and they direct those thoughts so that they may reach some enlightenment.

. . . Slapping my son's hand never worked and locking him up didn't work either. We need to have programs that promote confidence, achievement, self-discipline, and give constant direction to their lives (not periodic instruction as in some of the other programs). Locking them away and forgetting them, giving them no chance to succeed in becoming good citizens, is not the way for some kids."

The results of programs like VisionQuest will someday be quantified in a reliable manner. The preliminary findings of a soon to be released study of VisionQuest by the Rand Corporation are encouraging. During the years various studies have been done of VisionQuest with different populations and methodologies. While some may argue with their techniques, the results have been very positive.

There are long-term consequences for society of continuing to incarcerate more children than need to be. In terms of human potential and cost, the results are catastrophic. My conviction in speaking before you today stems from the hope that I have seen for the future of kids labeled hopeless, and from the changes I have seen in the faces and attitudes of kids who were considered lost causes.

A young lady who graduated from VisionQuest summed it up:

> "One thing that was so good about the staff was that they never gave up on us. Even though we didn't give a damn about ourselves. . . . My time at VisionQuest was the best time in my life. Also the hardest. VisionQuest probably saved my life and I'm glad I was there."

Chairman MILLER. Nellie.

STATEMENT OF NELLIE HUTCHISON, DIRECTOR, GOVERNOR'S COMMISSION FOR CHILDREN AND YOUTH, JACKSON, MS

Ms. HUTCHISON. Mr. Chairman, and fellow panel members, I am Nellie Hutchison from Jackson, MS, director of the commission for children and youth, Department of Human Development, Governor's Office of Federal-State Programs.

The commission, among other things is the advocacy arm for children for the Governor's office in Mississippi. I welcome the opportunity to share with you our efforts in Mississippi to pass legislation regulating 24-hour residential child care facilities and to outline briefly our concerns about children and youth who must live away from their families.

I shall be very brief in my verbal presentation but more detailed information is available in a lengthy report that I submitted.

Mississippi law on regulation of 24-hour residential child care facilities is far from what we desire. Passed in 1972, the law gives the Department of Public Welfare authority to license residential child care facilities; however, there is no penalty for noncompliance.

An exemption was provided for homes sponsored by religious or fraternal organizations. These were not defined so the State is wide open to operators of residential facilities who can claim some kind of religious or fraternal sponsorship.

In 1978 Mississippi child advocates and authorities became concerned about unlicensed children's homes in the State. Children running away from these homes reported abusive conditions, and there was evidence that children were coming into Mississippi from homes in other States which had closed down because of licensure requirements.

As a result of this concern, efforts were made in 1979, 1981, and 1985 to pass legislation requiring licensure of all child care facilities and child-placing agencies. During these years support for licensure came from many church-related homes who were voluntarily licensed, as well as from child advocates and State agencies.

However, there has been consistent opposition from a segment of the religious community who believe very strongly that to be licensed by the State is equivalent to asking permission of the State to carry out an activity that they consider a mission from God.

Therefore, prior to the 1986 legislative session the licensure committee met with representatives of the unlicensed religious affiliated homes and negotiated a compromise agreement on basic items that would be included in a registration bill. A key part of that agreement was that the regulating body would not be allowed to promulgate standards. "Everything that would be done must be stated in the bill." And licensing was still an issue that was vigorously opposed.

Further negotiations took place to develop the actual bill which required registration with the health department. The department would be authorized to make annual inspections limited to health, nutrition, cleanliness, safety, sanitation and the existence of case records and a written discipline policy. It required that children be provided an education consistent with State law. Violations of the act would be reported to the district attorney, sheriff, and attorney general for action and prosecution. Penalties included ranged from a $250 fine for operating in violation of the act to closure by court action if there were very serious infractions involved.

Although much weaker than what we wanted, it was a bill that would at least address our most basic concerns and would allow health department officials to enter all homes. In addition, the compromise brought active support of two leaders of unlicensed homes as well as significant political support in the legislature. Initially, the bill passed both houses by a significant majority; however, it finally died in conference committee.

Opponents of the bill, during the session, had worked hard in both houses on separation of church and state issues. One stated on the floor, "They will be telling us what we can teach in Sunday school next."

Our effort was greatly complicated by the active and strong opposition of the moral majority, which insisted that even this registration bill was "licensing" and therefore, a violation of separation of church and state.

Let me state that there are unlicensed homes in Mississippi that provide excellent care, but because of the lack of effective State regulations there are problems which continue to exist in many homes. Among these problems that we are greatly concerned about are fire safety, children being inappropriately locked in, censorship of mail and phone calls, both in and out, excessive and unreasonable corporal punishment, great restrictions on visits with family, and then only after the child has been in the home for many months.

Education has been a problem, but this has seemed to improve to some degree over the years. Other problems are failure to report runaways. In one instance 3 years ago three girls ran away, one of them was hit by car and killed, and it took authorities an enormous length of time to figure out who the child was and where she was from.

More recently we have been concerned about reported use of youth as work crews in construction and clean up operations.

The home's preferred procedure is for the home to have custody of the child. In order for a noncustodial parent or relative to have access to a child, or in some instances even to find out if the child is in the home, it is necessary to hire an attorney and go through a habeas corpus procedure.

For example, in the case of divorced parents, if a non-custodial parent had visitation rights, he or she would have to go the habeas corpus route to have access to the child. A lawyer in south Mississippi can document numerous such procedures in at least two different Mississippi counties.

County judges and youth court judges can issue orders but they have no backup in State law which makes entree to facilities and enforcement very difficult.

We believe that children who must live away from their families are the most vulnerable group there is, and certainly that has been well evidenced in the earlier testimony.

We are concerned that no one really knows how many of these children reside in Mississippi or where they are from.

We need services for these children and their families before it gets to the point of separation. We also need homes for those children who cannot, for whatever reason, remain with their families, but we need homes with minimum standards so that each child will have the best possible opportunity to grow into a productive citizen who can function in today's complex society. We need a climate of openness and trust.

Without State mandated regulations, the pattern of occasional case remedy after the fact will continue. Prevention will be impossible without entry into the homes, required minimum standards, and enforcement procedures. Inaction will not make the problem go away, as there are increasing numbers of unregulated homes and children in them.

Let me hasten to say that we know that licensure is no guarantee that there won't be abuse or neglect. But we do think that it drastically increased the odds for the child.

We shall continue to be working on this issue in Mississippi. We hope for better things in our 1987 legislative effort.

I will be glad to answer question that you may have and appreciate your hearing me.

[Prepared statement of Nellie Hutchison follows:]

PREPARED STATEMENT OF NELLIE HUTCHISON, ACSW, DIRECTOR, COMMISSION FOR CHILDREN AND YOUTH, DEPARTMENT OF HUMAN DEVELOPMENT, GOVERNOR'S OFFICE OF FEDERAL-STATE PROGRAMS, MISSISSIPPI

The Commission for Children and Youth, Department of Human Development, Governor's Office of Federal-State Programs, welcomes the opportunity to share with the House Select Committee on Children, Youth, and Families the efforts of the Commission, and many other people concerned with child welfare, to pass legislation regulating 24 hour residential child care facilities sponsored by religious and fraternal organizations and to discuss briefly our concerns about the children and youth who are living away from their families.

In 1971 the first Mississippi Council on Children was created by Executive Order and worked as an advocate in various children issues. The Commission for Children and Youth (CCY) is an outgrowth of this Council, and was created in 1981 by Executive Order to identify gaps in services, promote coordination of services, avoid duplication and to advise the Governor and Legislature on issues related to children and youth. It is composed of the heads of the Departments of Health, Mental Health, Education, Welfare and Youth Services, and 17 individual members representing parents, child advocates and professionals who work with children.

Mississippi has the weakest law in the nation on regulation of 24-hour residential child care facilities. Passed in 1972, the law gives the Department of Public Welfare (DPW) authority to license and set standards for residential child care facilities; however, there is no penalty for non-compliance and exemption was provided for homes sponsored by religious or fraternal organizations. Religious and fraternal organizations were not defined so the state is wide open to operators of residential facilties who can claim some kind of religious or fraternal sponsorship.

In 1978 Mississippi child advocates and authorities became concerned about unlicensed children's homes in the state. Children running away from these homes reported abusive conditions; there were inquiries from other states on behalf of specific children from their states, and there was national media coverage of the Texas effort to close down the unlicensed homes of Mr. Lester Roloff, which linked at least one Mississippi home, Bethesda Home for Girls, Hattiesburg, Mississippi, with the Roloff Enterprises. There were also indications that Mississippi was becoming a dumping ground for operation of homes which were closed down in other states.

In January 1979 as result of this concern, HB 1202 was introduced in the Mississippi House of Representatives to provide for licensure of child care facilities and child-placing agencies. This bill died in committee in the House.

In the spring of 1980 three homes in Mississippi attracted public attention. These were Bethesda Home for Girls and Redemption Ranch in Forrest County near Hattiesburg, and Bethel Home in George County near Lucedale.

After two 15-year-olds ran away from Redemption Ranch claiming they had been beaten with pieces of two-by-six lumber, a Forrest County grand jury investigated the two Forrest County homes. The grand jury reported finding safety code violations, residents sleeping on the floor, inadequate nutrition, inadequate medical attention, lack of personal privacy including censorship of all mail, and inadequate educational programs.

Just prior to the Redemption Ranch incident, a youth ran away from Bethel charging abuse. The investigating sheriff stated in the Hattiesburg American of 3/17/80 that the child had been beaten and abused and that a preliminary investigation of the home revealed unhealthy and unsanitary conditions, as well as evidence of abuse involving additional children. Thirty-nine children were temporarily removed from the home.

By the end of the month an out-of-court settlement had been reached which contained the following provisions:

1. Supervision of conditions at the home and of the children was placed with the youth court judge or his designee for whatever period of time the court deemed necessary.
2. The questions of corporal punishment, the reasons for it being administered, and the degree, was to be further investigated by the court.
3. All laws of the State of Mississippi pertaining to health, safety, nutrition and welfare were to be complied with by the home.
4. The home was ordered to comply with the Interstate Compact Act requiring that children at the home from out of the state be reported to the State of Mississippi.
5. The court was to determine if minimum state requirements concerning education are being adhered to by the home.
6. The court would determine whether a child living at the home has a right to conduct uncensored telephone calls and correspondence by mail with parent, guardian or placing agency, or anybody else acting in place of the parents.
7. Misdemeanor charges of assault and battery against the director and his assistant, and disobeying a lawful order against these and two other school employees would not be pressed by the state.
8. Lawyers for the home agreed not to bring any litigation against local and state officials as a result of the March 16 arrests.

In a later opinion on the question of corporal punishment and censorship, Youth Court Judge Glenn Barlow, found that corporal punishment in a reasonable manner was permitted under state law; however, he was quoted as finding "predominantly unreasonable" the list of causes for corporal punishment submitted by Bethel and cited one example, that of bed-wetting. Judge Barlow further elaborated that use of restraints in punishment was forbidden and that the following factors should be considered in administering corporal punishment: age, sex, physical and mental conditions of the child; nature of the offense; how the act influenced other children; whether force or confinement was reasonably necessary and appropriate to compel obedience; appropriateness to the offense; is unnecessarily degrading or likely to cause serious or permanent harm, and the use of any means or instrument that would likely cause harm.

On censorship, Judge Barlow stated that a child should not be denied the right to write or call collect his parents or guardian and that he should be able to do so uncensored.

The home was given 30 days to complete some physical changes pertaining to health and safety and the jurisdiction of the court was continued for 90 days.

In 1981, after some discussion between the larger religious homes and child advocates, Senate Bill 2284 was introduced. The bill would have required all homes to either be licensed or by a certain time have a certificate of accreditation from the National Association of Homes for Children. It was voted out of committee but died on the Senate calendar.

In the fall of 1983 the task force on Foster Care/Adoption/Permanency Planning of the CCY undertook a survey of residential care facilities in the state. Survey forms were sent to 52 known facilities providing 24-hour residential care for children living away from their parents. Forty-three responses were received. Of these, 15 were short-term care facilities (i.e., house a child 60 days or less) and 28 were long-term. Fifteen of the 28 long-term care homes were licensed. These 28 had a capacity of 1,576 children, with a then current enrollment of 799 Mississippi children and 283 from out-of-state. This survey also attempted to determine the sex and age of the children served, the referral source and major problems of those children served by the facility. The nine facilities not responding were also unlicensed. Five new long-term care facilities have opened since 1983.

In March, 1984, CCY convened a two-day conference with representatives from children's institutions, child advocacy groups, and public and private agencies responsible for placement and care of children in residential settings. Jake Terpstra, licensing specialist with the U.S. Children's Bureau served as consultant to the group. The purpose of the conference was to determine if concensus could be reached and support generated for a licensing effort in the 1985 Legislature. There was enthusiastic endorsement of this effort and a drafting committee was appointed.

The licensing bill introduced in 1985 was the product of this committee's hard work and deliberations which included review of the 1979 licensure bill, the laws of Texas, Alabama and Florida, "Guidelines for Operating a State Licensing Program for Placement and Care of Children", Children's Bureau, ACYF, OHDS, HHS, and input from Jake Terpstra.

In October, 1985 the draft was complete and those who attended the conference were invited back to review and comment on the draft. The only negative comments were expressed by the representative of a well-respected, but non-licensed church related institution. He was asked to convey to the committee written changes he would suggest, but nothing more was heard until the bill was introduced. At that time all the unlicensed religious homes joined to defeat the bill. Some effort was made to compromise by allowing homes to choose licensure or accreditation from the Child Welfare League of America or the American Society of Homes for Children, but this failed. The bill was defeated despite the fact that it was supported by the homes of the mainline religious groups of the state, i. e. Methodist, Baptist, Catholic, Church of Christ.

The strategy for the 1986 legislative session included visiting all the unlicensed homes to discuss licensure and personally invite their input and participation in the process; with the goal of proposing a bill acceptable to all possible.

During the summer of 1985, 15 unlicensed homes were visited by volunteer members of the licensure committee. Four of these were adamantly opposed to licensure, as were three additional homes that were not actually visited. The remainder were more in the "not opposed" category rather than voicing overt support.

The directors of two unlicensed church-sponsored homes with a reputation for providing good services to children were approached about negotiating a compromise position. They convened the unlicensed homes and then met with the licensing committee. The outcome was a memorandum of agreement on basic items that should be included in a registration bill. Licensing was a concept that they would vigorously oppose.

Further negotiations took place to develop the actual bill which required all residential child care facilities to register with the Health Department. The department would be authorized to make annual inspections limited to health, nutrition, cleanliness, safety, sanitation and the existence of case records and a written discipline policy. It required that children be provided an education consistent with state law. Violations would be reported to the District Attorney, sheriff, and Attorney General for action and prosecution.

Although much weaker than what CCY wanted, it was a bill that would at least address our more basic concerns and would allow entry into all homes by health department officials. In addition, the compromise brought active support of two of the three leaders of the unlicensed homes, as well as significant political support in the Legislature. SB 2611 passed the Senate on a 38-5 vote. In the House, SB 2611 was rewritten with very little change in the actual content, and as a committee substitute, passed the House by a vote of 87-30. It went back to the Senate where it was discovered that language exempting agricultural boarding high schools (there are 2 in the state) had been inadvertently omitted. Conservative interests in the meantime had worked hard in the Senate on separation of church and state issues. One Senator stated on the floor "they'll be telling us what we can teach in Sunday School next." The Senate then sent the bill to conference. In the House, the chair of Public Health and Welfare had consistently opposed the bill as unnecessary. The three House conference committee members appointed by the Speaker of the House were the Chair of Public Health and Welfare, one other opponent, and the representative who supported and had handled the bill on the floor. Since two of the three conferees from each body have to sign off on a conference report, the bill died in conference committee. The effort was greatly complicated by the active and strong opposition of the Moral Majority which insisted that even this registration bill was "licensing" and, therefore, violation of separation of church and state.

Plans for 1987 are to again push for the compromise registration bill. However, recent events at Bethesda Home for Girls may make even this difficult.

On September 15 the Forrest County Youth Court issued a contempt citation against the director of the home for violating a March, 1984, court order and ordered the Welfare Department to take custody of 115 girls living there until they could be returned to their parents. All but six girls were from out of state.

State law regarding confidentiality of youth court records and actions are very strict. Because of this there was a gag order on all concerned. The lack of information given to the public as to why this action was taken has created a backlash of public opinion against government intervention, therefore, against licensure. Although the press has been supportive, (see clippings and editorial attached) many of members of a major denomination who have been supportive are having serious second thoughts and may very well be able to turn this denomination's official support into opposition.

Our concern for these extremely vulnerable children remains foremost. Newspaper reports from a home under investigation and from CCY staff who helped the Department of Public Welfare during this time verify questionable conditions and policies at this home. A brief description of another home may help you understand our concerns for these children.

The following August 1985 update is based on information from a man who contacted this office after removing his brother from this home, the home's discipline procedures sent to Mississsippi Department of Public Welfare from the Kentucky Commission of Social Services, and information from a local resident who has spoken with runaways and their families, neighbors of the home, and other local people.

This home has 100 residents, most of whom are from out-of-state (in 1980 there were 38 children there). The living quarters for the boys were reported as inadequate and in questionable condition, yet the boys were building a new home for a staff member.

The state fire marshall was allowed to inspect the girls' dormitory and made recommendations. To our knowledge there has been no follow-up. Because of its rural setting there is no building code and construction and wiring are being done by the boys at the home. The home is currently on the city water and sewer system.

The staff consists of eleven persons, none of whom have any specialized training or professional credentials.

The children do not attend school and officials of the home refuse to comply with provisions of the compulsory school attendance law. The boys from the home serve as work crews, tearing down buildings, building others. Recently they built a swimming pool for a local doctor and reportedly tore down some buildings at Keesler Air Force Base in Biloxi. The boys are not paid for this work.

The daily routine is:

5:00 a.m. Rise

Breakfast of grits

Devotions

7:00 a.m. Work

Noon - Lunch - sometimes watermelon and cookies

1:00 p.m. Work

Dark - Dinner

Devotions and Bed.

Discipline is carried out through corporal punishment, laps, and push-ups. Some examples of offenses are:

Looking at a girl = 10 licks

Talking in dining hall or kitchen at mealtime = 4 licks

Worldly music (rock and roll, country, etc.) = 7 licks (10 laps).

Recently a runaway boy reported being shot with a pellet gun.

It is reported that children are allowed to bathe every 10 days in cold water and without soap unless they have purchased their own. The boys report being allowed only 2 squares of toilet paper per day.

There is no consistent monitoring of the home by the court because three judges rotate through this jurisdiction on a yearly basis, and they vary in their interest and concern about this home. The most aggressive judge, after the 1980 rulings, established a requirement that when a child ran away and was returned to his parents, the parents must sign a affidavit that they will not return the child to this home.

As result of a letter, this office made a report to the Department of Public Welfare and requested that they investigate the complaint and document the steps taken in the investigation. The chronological order of steps taken by DPW is:

8-12-85 Receipt of written report from Commission for Children and Youth (CCY) regarding abuse of children at the home in question.

Memorandum to a DPW Regional Program Manager with copy of report.

8-13-85 Received copy of letter sent to CCY by a resident's brother confirming verbal referral to CCY.

- Memorandum to program manager with copy of letter.

8-20-85 - Telephone call from program manager saying the judge requested DPW attorneys to prepare an order to investigate.

- Memorandum to Legal Division regarding request from the judge.

8-26-85 - Letter from Legal Division to the judge with order to investigate.

Early 9/85 The judge required DPW to prepare a motion for a show cause hearing, which alerts the home of the pending investigation.

10-1-85 - Meeting with DPW Children's Services and Legal Division staff, the Commissioner, representatives from the Attorney General's Office; Highway Patrol, and CCY to discuss issues and approaches for coordinated investigation.

10-3-85 - Requested copy of the home's court file from George County.

10-10-85 - Received above.

10-9-85 - Received investigation information from Mississippi Highway Patrol.

10-28-85 - Proposed interview with foster children in Mississippi who have left the home.

As of this writing, we are aware of no further action.

In summary, we have many concerns about the children living in unregulated facilities although there are several in the state providing excellent care. We are concerned about their health and safety, nutritional needs, spiritual development, education, self-esteem, corporal punishment which is degrading and physically harmful, and being locked up and isolated from others including their families.

We need homes for these children who cannot, for whatever reason, remain with their families, but we need homes with minimum standards so that each child will have the best possible opportunity to grow into a productive citizen who can function in today's complex society.

Without state mandated regulations, the pattern of occasional case-remedies after the fact will continue. Prevention will be impossible without entry into homes, required minimum standards, and enforcement procedures. We remain hopeful for 1987.

State·Metro

DEATHS – 2
A.M. LEDGER – 2
STOCKS – 5-6
B

The Clarion-Ledger

• September 12, 1986 ■ FRIDAY

State set to remove 120 from Hattiesburg home for girls

By LYNN WATKINS
and MARY DIXON
Clarion-Ledger Staff Writers

HATTIESBURG – The state Department of Public Welfare was poised Thursday to remove as many as 120 adolescents from the Bethesda Home for Girls, but had not found room for the teenagers by late in the day.

Linda Raff, acting director for Catholic Charities, said Ann Pulliam of the state Welfare Department contacted her early Thursday seeking shelter for the girls housed at the home, off River Road, about seven miles east of Hattiesburg in Wade Town.

But Raff was unable to locate housing for such a large group, she said.

"Most of these children are from out of state; I believe only three of them are from Mississippi," Raff said. "We were asked to locate shelter for the children for three days to a week, about the time it would take to find their parents and return them."

Officials including Welfare Commissioner Thomas E. Brittain would not say why the girls were to be removed, citing confidentiality of youth court matters under state law. But the action reportedly stemmed from Forrest County Youth Court orders involving the Rev. Bob R. Wills, director and owner of the home.

Brittain, escorted by a Forrest County deputy sheriff, was at the home holding meetings with state and local officials.

As they talked, teenage girls, all wearing skirts, were crammed into a lobby of the facility.

Two girls were outside cleaning the chrome on a red pickup bearing a front plate with the name "Papa." The girls slowly cleaned the hubcaps, pausing briefly to pray. Wills, whom the girls call Papa, videotaped the girls as they cleaned.

Brittain would not discuss the situation, explaining, "In respect for the children involved and respect for the law, we can have no comment at this time."

Wills said he had been told by an unnamed judge not to comment.

Forrest County Youth Court Michael McPhail and Harrison County Family Court Judge Michael Ward of Gulfport also would not comment. Ward, the state's only family court judge, is listed as special Forrest County Youth Court judge in Forrest County Court records relating to the release of a girl from the home in August.

Hattiesburg lawyer Erik Lowery said he filed a petition in McPhail's court in early August to obtain the release of a 17-year-old Maryland girl from the home.

McPhail found the home in violation of previous Forrest County Youth Court orders, court records indicate. Lowery would not discuss the youth court orders, but said charges in the petition included slavery and incarceration of the girl against her will.

"At that time, I asked the court to transmit the file to Forrest County Youth Court and that certain things be done," Lowery said. "That's what's happening now."

Lowery said he has brought more than 15 suits against the Bethesda home in the past seven years, questioning its disciplinary actions and legal basis for holding children.

"Our theory is, you can't run a private jail," he said.

McPhail granted custody of the 17-year-old girl to Susan Learmonth of Washington, D.C.

Learmonth, contacted Thursday at her Washington home, said Bethesda attempts to brainwash the juveniles at the home.

See Bethesda, 2B

TOM ROSTER The Clarion-Ledger

A Forrest County Sheriff's Department car sits in front of the Bethesda Home for Girls.

Bethesda

State, from 1B

"It sounded like jail — worse than jail," said Learmonth.

"There is an attempt to convince the girls they have no one to rely on — to cut them off from the outside world."

At Bethesda, the girl was allowed to read only the King James version of the Bible, said Learmonth. She was not allowed to watch television or listen to the radio, and all her mail was censored, Learmonth said.

The girl was at Bethesda for 11 weeks, after being placed there by her parents, Learmonth said. The parents, of Silver Springs, Md., placed the teen at Bethesda saying she was unruly and accusing her of abusing drugs, Learmonth said.

The Bethesda Home for Girls, operating under a charter granted in 1976 to Redemption Ranch Inc., was once a home run by Texas evangelist Lester Roloff of Roloff Enterprises Inc. Texas authorities revoked licenses for Roloff-sponsored homes for troubled teens in the 1970s, citing over-strict disciplinary actions, overwork and deprivation of food.

In records filed with the Secretary of State's office, Redemption Ranch Inc. is a non-profit corporation in good standing in Mississippi. Wills is listed as president of the board of directors and Betty Sue Wills as secretary-treasurer.

The Wills operate Bethesda Home for Girls and formerly operated Redemption Ranch for Boys, about 20 miles away in Eastabuchie. Allegations of excessive force to discipline wayward teens, usually sent to the homes by their parents, have haunted the homes since 1973, when they were operated by Hubert and Dorothy Barnwell, admitted followers of Roloff.

Redemption Ranch for Boys is now known as Green Pastures, said the Rev. Bobby Dansby. Dansby, a Petal minister for 15 years, said he leased the home about nine months ago from Wills.

2A ■ The Clarion-Ledger/Jackson Daily News ■ Sunday, September 21, 1986

Bethesda flap unresolved

Steps toward closure began 2 years ago

By LYNN WATKINS
Clarion-Ledger Staff Writer

HATTIESBURG – The Sept. 11 takeover of the nearby Bethesda Home for Girls began more than a week of legal confusion and tension.

State and local officials still refuse to comment on the situation, citing pending legal action and the confidentiality provisions of the Youth Court Act. Bethesda's owner and operator, the Rev. Bob R. Wills, still faces civil contempt charges in the case, and no hearings have been scheduled.

Forrest County Youth Court records made public Friday by Harrison County Family Court Judge Michael H. Ward show a chain of events stretching back nearly 2½ years – arising from a case listed in court records under "M.I., a minor."

The takeover resulted when the state Department of Public Welfare was ordered by Dan Wise, Forrest County Youth Court referee, to assume temporary custody of the 115 residents at the facility as a result of the Wills' violation of a 1984 injunction. The order required him to report all student admissions, among other stipulations.

For almost 13 years, Wills, his wife, Betty Sue, and other workers at the home have been accused of brainwashing and beating residents of the facility, which served troubled teens. In early years, nearly half the facility's residents were unwed mothers, but many recent Bethesda residents were chronic runaways involved with drug or alcohol abuse.

Residents were placed at Bethesda by their parents or guardians, frequently against the youths' will, and often as a last resort. One mother who brought her daughter to Bethesda six months ago said she took amphetamines to stay awake so she could keep the teen from running away. The effort failed, said the mother, who asked not to be identified.

Run on strict religious Christian fundamentalist priniciples, the facility's doors were locked 24 hours a day, dead bolts secured doors of the girls' rooms, and burglar alarms were connected to every window. Discipline was strict, and violators were punished with up to 10 blows from a wooden paddle.

Bethesda, founded in 1972 by the Wills for the late Texas evangelist Lester Roloff, is on 211 secluded acres about 10 miles southeast of Hattiesburg. The facility, now being converted into Christian Life Baptist Academy, a boarding school, has been run as Redemption Ranch Inc., a private, non-profit organization chartered by Wills and his wife in 1976.

The chain of events include:

■ March 30, 1984. In the case of M.I., Wise issued a temporary injunction against Wills and Bethesda, which was found to be a detention center under the state Youth Court Act.

Wise ordered Wills to provide immediately a list of all children at the facility, as well the names, addresses and phone numbers of the residents' parents or guardians. Wise also ruled that each child at the home was entitled to a Youth Court hearing to determine if she should be returned to her parents. He barred Wills from moving any residents without first notifying the Youth Court and ordered him to provide the name and home address of any new resident within seven days of admission.

■ Sept. 14, 1984. Forrest County Youth Court Judge Michael McPhail removed himself from the M.I. case and appointed Ward, of Gulfport, as special judge.

■ Sept. 28, 1984. Ward made the March 30 injunction permanent.

■ Aug. 7, 1986. A petition was filed by Hattiesburg attorney Erik Lowrey to obtain the release of A.S., a Maryland girl held at the facility against her will. Lowrey's petition alleged that Wills had violated the March 1984 injunction because she had not gone through a Youth Court hearing prior to entering Bethesda.

■ Sept. 8. Forrest County Attorney Tom Zachary filed a motion to cite Wills for contempt of the March 30 injunction.

■ Sept. 11. Wise issued an order granting temporary custody of Bethesda residents to the state Welfare Department. Wise's order stated the reason for the action was Wills' violation of the March 1984 injunction. The order also suspended Bethesda's corporal punishment policy until further notice by the Forrest County Youth Court.

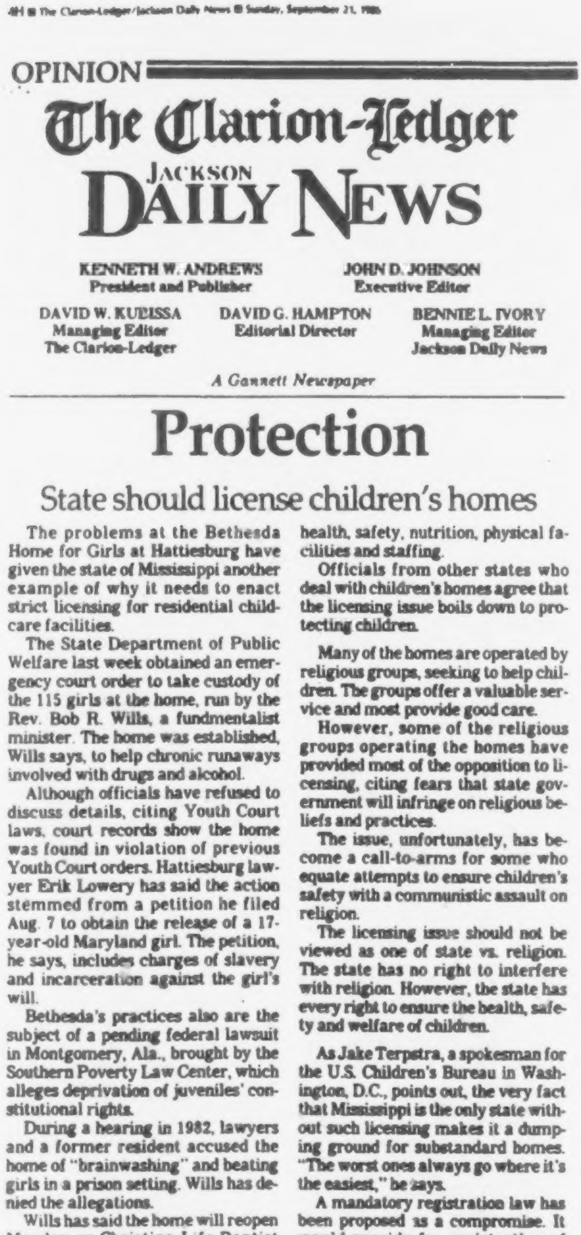
■ Sept. 12. Forrest County deputies seal off the entrance to Bethesda.

■ Sept. 15. Wise's emergency order expires at 3 p.m., and the last of Bethesda residents, about 12 girls, are taken by Forrest County sheriff's deputies to Forrest County Youth Court for custody hearings.

■ Sept. 16. Attorneys for the Wills and Bethesda file a motion to rehear the M.I. case.

■ Sept. 17, 1986. Attorneys for The Clarion-Ledger/Jackson Daily News and the Hattiesburg American petition Ward to allow access to hearings and records relating to Bethesda and its takeover. The petition, later joined by Hattiesburg television station WDAM, also asks that the confidentiality provision of the state Youth Court act be declared unconstitutional.

■ Sept. 19 Ward, acting as special Forrest County Youth Court Judge, releases six Youth Court orders, to the news media with restrictions



4H ■ The Clarion-Ledger/Jackson Daily News ■ Sunday, September 21, 1986

OPINION

The Clarion-Ledger

JACKSON DAILY NEWS

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The Clarion-Ledger

DAVID G. HAMPTON
Editorial Director

BENNIE L. IVORY
Managing Editor
Jackson Daily News

A Gannett Newspaper

Protection

State should license children's homes

The problems at the Bethesda Home for Girls at Hattiesburg have given the state of Mississippi another example of why it needs to enact strict licensing for residential child-care facilities.

The State Department of Public Welfare last week obtained an emergency court order to take custody of the 115 girls at the home, run by the Rev. Bob R. Wills, a fundmentalist minister. The home was established, Wills says, to help chronic runaways involved with drugs and alcohol.

Although officials have refused to discuss details, citing Youth Court laws, court records show the home was found in violation of previous Youth Court orders. Hattiesburg lawyer Erik Lowery has said the action stemmed from a petition he filed Aug. 7 to obtain the release of a 17-year-old Maryland girl. The petition, he says, includes charges of slavery and incarceration against the girl's will.

Bethesda's practices also are the subject of a pending federal lawsuit in Montgomery, Ala., brought by the Southern Poverty Law Center, which alleges deprivation of juveniles' constitutional rights.

During a hearing in 1982, lawyers and a former resident accused the home of "brainwashing" and beating girls in a prison setting. Wills has denied the allegations.

Wills has said the home will reopen Monday as Christian Life Baptist Academy, a boarding school.

Bethesda operated without a license from the state. In fact, none is required.

Mississippi is the only state in the country that has no licensing requirement for residential child-care facilities. Facilities can obtain a license from the state on a voluntary basis.

Licensing of residential children's homes is designed to ensure proper standards are maintained, including health, safety, nutrition, physical facilities and staffing.

Officials from other states who deal with children's homes agree that the licensing issue boils down to protecting children.

Many of the homes are operated by religious groups, seeking to help children. The groups offer a valuable service and most provide good care.

However, some of the religious groups operating the homes have provided most of the opposition to licensing, citing fears that state government will infringe on religious beliefs and practices.

The issue, unfortunately, has become a call-to-arms for some who equate attempts to ensure children's safety with a communistic assault on religion.

The licensing issue should not be viewed as one of state vs. religion. The state has no right to interfere with religion. However, the state has every right to ensure the health, safety and welfare of children.

As Jake Terpstra, a spokesman for the U.S. Children's Bureau in Washington, D.C., points out, the very fact that Mississippi is the only state without such licensing makes it a dumping ground for substandard homes. "The worst ones always go where it's the easiest," he says.

A mandatory registration law has been proposed as a compromise. It would provide for registration of such homes. Health Department inspections and written discipline procedures would be required. This would provide a means for the state to at least discover possible problems.

However, the state cannot afford to compromise on its obligation to protect the health and safety of children in these homes.

A strict mandatory licensing law is needed.

Chairman MILLER. Thank you.
Mr. Woodruff.

STATEMENT OF MICHAEL J. WOODRUFF, ESQ., DIRECTOR, CENTER FOR LAW AND RELIGIOUS FREEDOM, CHRISTIAN LEGAL SOCIETY, MERRIFIELD, VA

Mr. WOODRUFF. Thank you, Mr. Chairman. I want to thank you and all the members of the committee for the opportunity to address issues concerning religious institutions that provide care to children. The Christian Legal Society is an organization of 3,000 members, lawyers, judges, law professors, and law students concerned with issues involving faith in our society.

The Center for Law and Religious Freedom, of which I am the director, is the arm of the Christian Legal Society which is dedicated to preserving religious liberty. The Center annually receives well over 5,000 inquiries regarding religious freedom from individual citizens, lawyers, Federal, State and local officials, and congressional staff members.

The Center has filed over 20 amicus briefs in the Supreme Court on the issue of religious liberty. The Center publishes the Religious Freedom Reporter, a monthly publication that provides comprehensive tracking of cases and legislation affecting religious freedom in the United States.

Recognition of the needs of children within the fabric of state laws and the constitutional rights of religious institutions that provide services to children in need is a concern of the Center. However, our concern for the rights of religious ministries does not diminish our conviction that religious ministries have a responsibility to assure that certain compelling interests of the State are met.

For centuries, religious groups have provided social services to the needy in society, particularly to children who, for one reason or another, are not able to remain in their parental homes. Religious bodies have been the standard-bearer, while the State has been the relative new comer in providing care to the needy.

Obviously, this is not to say that the State's involvement in providing services to children in need is either unnecessary or unwelcome; but it is to underscore the important fact that the State does not preempt the field or have a monopoly in its concern for children in need and the provision of quality services to those children.

In my testimony I would like to address two specific questions regarding the interaction between the State and the religious facilities for children. First, can the State prohibit a religious facility for children from operating unless it obtains a license from the the State?

Second, can the State refuse to place children in State custody in a religious facility that is unlicensed?

One, as to the first question, the State cannot prohibit a religious facility for children from operating solely because it refuses to obtain a license from the State. Religious facilities for children have three independent, constitutional protections from State licensing requirements: the free exercise clause, the establishment clause, and the parental right to direct the upbringing of their children.

In discussion of the free exercise right, we would say that just as licensing of the press or speech triggers the highest level of constitutional scrutiny, so too should compulsory licensing of a religious ministry.

In my written text, which I will submit, there will be the legal citations for some of the statements that I make.

The religious facilities for children are a religious ministry, a necessary outgrowth of the religious beliefs and teachings of the particular religious faith of the institution. Ministering to the needs of children is as much an act of religious worship for that religious institution as is attendance at a Sunday morning worship service.

The first amendment in its Free Exercise of Religion Clause, protects religious institutions from State control unless the State demonstrates, both a compelling interest in interfering with the ministry and no other available means is for achieving that compelling State interest. This is a high standard that the State must meet before it may regulate a religious ministry, but it is necessary in order to protect the free exercise of religion in our country.

Compelling State interests that would allow the State to intervene in a religious ministry would include compliance with the State or local health code, compliance with building and fire codes, and compliance with criminal laws, such as laws against child abuse.

Very importantly, a religious ministry is subject not only to criminal laws against child abuse but also, under common theories of tort liability, may be sued by a child through her parent or guardian for any physical harm inflicted.

Thus, freedom of religion does not protect a religious ministry from noncompliance with child abuse laws. However, it does protect the religious ministry from overly intrusive State measures, such as licensing, where the State has less restrictive means of protecting children within the religious ministry from child abuse.

It is unlikely that the State could prove that licensing is necessary to protect children. First, religious ministries are subject to criminal laws against child abuse which can be enforced against the ministry without having to license the ministry.

Second, some research studies have shown State licensing or permit schemes to be ineffectual. The work of Professor Carl Esbeck, of the University of Missouri at Columbia, in his 1981 law review article, "State Regulation of Social Services Ministries of Religious Organizations" is a very fine and complete study that is cited in my written text.

Common defects in licensing regulations are: One, in many instances, permits are issued almost automatically with little review of whether an applicant meets stated qualifications; two, standards frequently bear no relationship to legitimate government interests, but rather are used to restrict competition; three, the agencies charged with responsibility devote the bulk of their resources to permit issuance and renewal, and have little remaining time for monitoring and enforcement; and four, violators are rarely punished and licenses revoked.

Third, past experience shows that licensing is not a guarantee of safe, quality care for children. In recent years, we have witnessed, unfortunately, the occurrence of child abuse in State-licensed facilities.

A piece of paper in the file from the State is no guarantee that the employees of that facility will not abuse the trust placed in them.

Sadly, in a few of our public schools, which are the ultimate example of State-controlled institutions for children, children cannot even be assured of their own physical safety during the schoolday. Just this summer, a northern California State court held that a school district could not enforce compulsory attendance laws if it could not provide a safe environment for children, free from the abuse by others at the school.

We are all increasingly aware of the problem of violence in some of our State schools, violence of students against teachers and other students on school property during the school day. This problem is not raised to denigrate the public schools but merely to show that licensing by the State is no guarantee of the protection of safety of the children in the facility.

Turning to the discussion of the Establishment clause protection, the Establishment clause not only protects the State from undue interference by religious ministries; but equally importantly, it protects religious ministries from undue interference by the State.

The Establishment clause provides an autonomy for religious institutions that cushions them from State interference.

The Supreme Court has adopted a test for determining Establishment clause violations that focuses on whether a State policy or law fosters an excessive entanglement between the State and religious institutions. If excessive entanglement seems possible, the law is unconstitutional. The danger of entanglement is particularly acute if the law requires ongoing surveillance of a religious institution.

For the State to require licensing of religious ministries creates precisely the excessive entanglement between the State and religious institutions that is prohibited by the Establishment clause, particularly in light of the ongoing surveillance such licensing suggests.

Here I would particularly point out that if the licensing goes to content and personnel as opposed to health and safety standards that would be more likely to trigger this Establishment clause concern.

To avoid Establishment clause problems, it is best to leave religious ministries alone, except when a compelling State interest, as previously discussed, mandates State involvement with the religious ministry.

Turning to the discussion of the parental right, a critical reason for exempting religious ministries from State licensing is the constitutional right of parents to direct the upbringing of their children. Two key Supreme Court decisions, *Yoder* v. *Wisconsin,* 1972, and *Meyer* v. *Nebraska,* 1923, upheld.

Our Constitution bears the presumption that parents are more closely interested in the welfare of their children than is the State and are better able than the State in all but extreme circumstances to determine the appropriate philosophy and means for their children's upbringing.

Thus, in 1979, in *Parham* v. *J.R.* Supreme Court decision, the Court ruled that although children in State mental institutions have certain constitutional rights of due process, those rights are not as great as the rights of adults, if the children have been placed by their parents in the institution.

According to the Court, our law presumes that the parents have the best interests of their children at heart, even in the context of institutionalization.

Many religious facilities receive all or the vast majority of their placements not from the State but from parents or guardians themselves. In such cases, the parents have exercised their constitutional right to determine the philosophy and type of setting in which their children will be placed for various reasons with which the parent is presumed to be the most familiar.

The second major question which I would like to address is whether a State legally can refuse to place children in its custody in an unlicensed religious facility. The answer is yes. The State can refuse to place children in its custody in unlicensed facilities generally.

As long as the State is not singling out religious facilities for discrimination, but is evenhandedly refusing to place children in any unlicensed facility, religious or nonreligious, the State has the ability to refuse to place children in its custody in those institutions.

Generally, the States have not refused to place children in their custody in unlicensed facilities, if the States are otherwise satisfied that the facility provides adequate care for the children. The demand for such facilities far outnumbers the supply of such facilities at the present time.

Religious institutions are important in meeting the overwhelming demand.

No one should argue that institutions, religious or nonreligious, which engage in child abuse or violate health or building codes, should be allowed to operate. However, the answer is not licensing religious facilities. The answer is to enforce the already existing laws that protect the compelling interests of the State by the least restrictive means without violating the constitutional rights of the religious institution or the parents involved.

The history of religious liberty in our country has always been one of tension between the State, which often seeks to increase its power in a particular area, and religious institutions, which try to maintain the liberty to act in accordance with their religious beliefs, whether in worship services or social ministries.

Religious ministries to children and others in need have had, and will continue to have, a positive history in our country, if the State is mindful of the constitutional protections accorded these institutions.

Thank you very much.

[Prepared statement of Michael J. Woodruff follows:]

PREPARED STATEMENT OF MICHAEL J. WOODRUFF, DIRECTOR OF THE CENTER FOR LAW & RELIGIOUS FREEDOM OF THE CHRISTIAN LEGAL SOCIETY

Mr. Chairman, I want to thank you and the members of this Committee for the opportunity to address issues concerning religious institutions that provide care to children. The Christian Legal Society is an organization of 3,000 lawyers, judges, law professors, and law students concerned with issues involving religious faith in our society. The Center for Law and Religious Freedom, of which I am the director, is the arm of the Christian Legal Society dedicated to preserving religious liberty. The Center annually receives well over 5,000 inquiries regarding religious freedom from individual citizens, lawyers, federal, state and local officials, and Congressional staff members. The Center has filed over 20 *amicus* briefs in the Supreme Court on issues of religious liberty. The Center publishes the *Religious Freedom Reporter*, a monthly publication that provides comprehensive tracking of cases and legislation affecting religious freedom in the United States.

The recognition of the needs of children within the fabric of State laws and the constitutional rights of religious institutions that provide services to children in need is a concern of the Center. However, our concern for the rights of religious ministries does not diminish our conviction that religious ministries have a responsibility to assure that certain compelling interests of the State are met.

For centuries, religious groups have provided social services to the needy in society, particularly to children who, for one reason or another, are not able to remain in their parental homes. Religious bodies have been the standard-bearer, while the State has been the relative newcomer, in providing care to the needy. Obviously, this is not to say that the State's involvement in providing services to children in need is either unnecessary or unwelcome; but it is to underscore the important fact that the State does not preempt the field or have a monopoly in its concern for children in need and the provision of quality services to those children.

In my testimony I would like to address two specific questions regarding the interaction between the State and religious facilities for children. First, can the State prohibit a religious facility for children from operating unless it obtains a license from the State? Second, can the State refuse to place children in State custody in a religious facility that is unlicensed?

I. As to the first question, the State cannot prohibit a religious facility for children from operating solely because it refuses to obtain a license from the State. Religious facilities for children have three independent, constitutional protections from State licensing requirements: the Free Exercise Clause, the Establishment Clause, and the parental right to direct the upbringing of their children.

A. The Free Exercise Right. Just as licensing of the press or speech triggers the highest level of constitutional scrutiny, so too should compulsory licensing of a religious ministry. See, e.g., Larson v. Valente, 456 U.S. 228, 253n.29 (1982); Cantwell v. Connecticut, 310 U.S. 296 (1940). The religious facilities for children are a religious ministry, a necessary outgrowth of the religious beliefs and teachings of the particular religious faith of the institution. Ministering to the needs of the children is as much an act of religious worship for that religous institution as is attendance at a Sunday morning worship service.

The First Amendment in its Free Exercise of Religion Clause protects religious ministries from State control, unless the State demonstrates both a compelling interest in interfering with that ministry and no other means available for achieving the compelling State interest. This is a high standard that the State must meet before it may regulate a religious ministry, but it is necessary in order to protect the free exercise of religion in our country.

Compelling State interests that would allow the State to intervene in a religious ministry would include compliance with the state or local health code, compliance with building and fire codes, and compliance with criminal laws, such as laws against child abuse. Very importantly, a religious ministry is subject not only to criminal laws against child abuse but also, under common theories of tort liability, may be sued by a child through her parent or guardian for any physical harm inflicted.

Thus, freedom of religion does not protect a religious ministry from noncompliance with child abuse laws. However, it does protect the religious ministry from overly intrusive State measures, such as licensing, where the State cannot demonstrate that licensing is the least restrictive means of protecting children within the religious ministry from child abuse.

It is unlikely that the State could prove that licensing is necessary to protect children. First, religious ministries are subject to criminal laws against child abuse which can be enforced against the ministry without having to license the ministry.

Second, some research studies have shown state licensing or permit schemes to be ineffectual. See Esbeck, State Regulation of Social Services Ministries of Religious Organizations, 16 Val. U.L. Rev. 1, 55n.259 (1981). Common defects in licensing regulation are: (1) in many instances permits are issued almost automatically with litte review of whether an applicant meets stated qualifications; (2) standards frequently bear no relationship to legitimate government interests, but rather are used to restrict competition; (3) the agencies charged with responsibility devote the bulk of their resources to permit issuance and renewal, and have little remaining time for monitoring and enforcement; and (4) violators are rarely punished and licenses revoked.

Third, sad experience shows that licensing is not a guarantee of safe, quality care for children. In recent years, we have witnessed unfortunately the occurrence of child abuse in State-licensed facilities. A piece of paper in the files from the State is no guarantee that the employees of that facility will not abuse the trust placed in them. Sadly, in a few of our public schools, which are the ultimate example of State-controlled institutions for children, children cannot even be assured of their own physical safety during the schoolday. Just this summer, a Northern California state court held that a school district could not enforce compulsory attendance laws if it could not provide a safe environment for children, free from the abuse by others at the school. We are all increasingly aware of the problem of violence in some of our state schools, violence of students against teachers and other students on school property during the schoolday. This problem is not raised to denigrate the public schools but merely to show that licensing by the State is no guarantee of the protection of safety of the children in the facility.

B. The Establishment Clause Protection. The Establishment Clause not only protects the State from undue interference by religious ministries; but, equally importantly, it protects religious ministries from undue interference by the State. The Establishment Clause provides an autonomy for religious institutions that cushions them from State interference. *See*, *e.g.*, *NLRB v. Catholic Bishop*, 440 U.S. 490, 501 (1979).

The Supreme Court has adopted a test for determining Establishment Clause violations that focuses on whether a state policy or law fosters an excessive entanglement between the State and religious institutions. If excessive entanglement seems possible, the law is unconstitutional. *See*, *e.g.*, *Lemon v. Kurtzman*, 403 U.S. 602 (1971); *Walz v. Tax Commission*, 397 U.S. 664 (1970). The danger of entanglement is particularly acute if the law requires ongoing surveillance of a religious institution. *See*, *e.g.*, *Aguilar v. Felton*, 105 S.Ct. 3232 (1985); *Meek v. Pittenger*, 421 U.S. 349 (1975); *see also*, Esbeck, *Establishment Clause Limits on Governmental Interference With Religious Organizations*, 41 Wash. & Lee L. Rev. 347 (1984); Laycock, *Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy*, 81 Colum. L. Rev. 1373 (1981).

For the State to require licensing of religious ministries creates precisely the excessive entanglement between the State and religious institutions that is prohibited by the Establishment Clause, particularly in light of the ongoing surveillance such licensing suggests. To avoid Establishment Clause problems, it is best to leave religious ministries alone, except when a compelling State interest, as previously discussed, mandates State involvement with the religious ministry.

C. The parental right. A critical reason for exempting religious ministries from State licensing is the constitutional right of parents to direct the upbringing of their children. See, e.g., Yoder v. Wisconsin, 406 U.S. 205 (1972); Meyer v. Nebraska, 262 U.S. 390 (1923). Our Constitution bears the presumption that parents are more closely interested in the welfare of their children than is the State and are better able than the State in all but extreme circumstances to determine the appropriate philosophy and means for their children's upbringing. Thus, in 1979, in Parham v. J.R., 442 U.S. 584 (1979), the Supreme Court ruled that, although children in State mental institutions have certain constitutional rights of due process, those rights are not as great as the rights of adults, if the children have been placed by their parents in the institution. According to the Court, our law presumes that the parents have the best interest of their children at heart, even in the context of institutionalization.

Many religious facilities receive all or the vast majority of their placements not from the State but from parents or guardians themselves. In such cases the parents have exercised their constitutional right to determine the philosophy and type of setting in which their children will be placed for various reasons with which the parent is presumed to be most familiar.

II. The second question presented is whether a State legally can refuse to place children in its custody in an unlicensed religious facility. The answer is yes. The State can refuse to place children in its custody in unlicensed facilities generally. As long as the State is not singling out religious facilities for discrimination, but is evenhandedly refusing to place children in any unlicensed facility, religious or nonreligious, the State has the ability to refuse to place children in its custody in those institutions.

Generally, the states have not refused to place children in their custody in unlicensed facilities, if the states are otherwise satisfied that the facility provides adequate care for the children. The demand for such facilities far outnumbers the supply of such facilities at the present time. Religious institutions are important in meeting the overwhelming demand.

No one should argue that institutions, religious or nonreligious, which engage in child abuse or violate health or building codes, should be allowed to operate. However, the answer is not licensing religious facilities. The answer is to enforce the already existing laws that protect the compelling interests of the State by the least restrictive means without violating the constitutional rights of the religious institution or the parents involved.

The history of religious liberty in our country has always been one of tension between the State, which often seeks to increase its power in a particular area, and religious institutions, which try to maintain the liberty to act in accordance with their religious beliefs, whether in worship services or social ministries. Religious ministries to children and others in need have had, and will continue to have, a positive history in our country, if the State is mindful of the constitutional protections accorded these institutions.

Chairman MILLER. Thank you very much.

Ms. Hutchison, I assume it is your contention on the issue of licensing that people would have to make their own independent determination whether or not they wanted to be licensed, but if they didn't they would not be in receipt of children from the State; is that accurate?

Ms. HUTCHISON. That, indeed, is the situation as it exists now, Congressman Miller. The State Department of Public Welfare, which is the State agency that handles foster care, will not place children in an unlicensed facility.

They do license facilities; the licensing law that we have is very weak, it is more of a voluntary type of thing; and there are numerous private and religious groups that do have licensed homes. They have become licensed voluntarily.

Chairman MILLER. But now there's an exemption?

Ms. HUTCHISON. We now have an exemption. So in essence, the situation is that licensure is voluntary.

Most of the children who are coming into the nonlicensed homes are coming from parental placement, from relative placement, some form court placements within the State, but a large number of these children are coming in from out of State.

Chairman MILLER. What is the situation in the States where those children come from; would they be required to be in a licensed facility if they were placed in their own State?

Ms. HUTCHISON. It is my understanding it would be; yes, sir. I cannot document all; I don't have it at my fingertips, but it is my understanding that we are the only State that does not have some regulation of residential child care facilities.

Chairman MILLER. So, in effect, the State may be sending a child to Mississippi in a much less regulated fashion than they would be allowed to do in their own State?

Ms. HUTCHISON. Absolutely.

Chairman MILLER. And the rationale for that is what, a shortage of placement or places in the State?

Ms. HUTCHISON. I don't have an answer to what the rationale is. In talking to some of the parents about why they have sent their children to a specific home, there were any number of them who were simply very frustrated with trying to deal with the child, who wanted the child off their hands; somebody had told them there was a good place down in Mississippi that they could send their child. Oftentimes the child is taken down there or sent down there without any investigation of the home.

Our office receives calls on a regular basis from people, who either before or after the fact of placing children make inquiries about homes. Usually it is a professional who calls before the fact. It is more oftentimes a parent or relative who calls after the fact.

Chairman MILLER. In the case of State placement, I think you are talking about a private placement where a family is led to one of these facilities by a professional or somebody that says that——

Ms. HUTCHISON. In the case of the State, the State of Mississippi will not place a child in an unlicensed facility. If a State, indeed, goes through the interstate compact, which then links them with our welfare department which handles the State compact, then that child would not be placed in an unlicensed facility.

Chairman MILLER. What is the results of the VisionQuest follow-up on the auditors report; where are you on that?

Mr. ALDRICH. All of our recommendations were made to our State department of social services. They are required to report to us on the actions taken on the recommendations within 60 days, 6 months, and 1 year. The 60-day report is due momentarily, it was not available at the time I left California.

Chairman MILLER. What is the situation here; as I see it, again, when we send young people to VisionQuest, you are currently licensed in New Mexico; is that right?

Mr. BURTON. In Arizona.

Chairman MILLER. In Arizona; then if your wagon train goes in to New Mexico, you are not licensed.

Mr. BURTON. The State of Arizona believes we are.

Chairman MILLER. What does the New Mexico believe?

Mr. BURTON. The State of New Mexico through interstate compact addresses this, anytime the wagon train goes to a new State, interstate compact says that does not constitute a new placement, rather they are on a visiting status.

Chairman MILLER. Who monitors them when they are visiting?

Mr. BURTON. Interstate compact lets the State know——

Chairman MILLER. Who then monitors; does the State of New Mexico come out then and monitor them while you are moving through their State?

Mr. BURTON. The States do, yes. And the probation department does, because they come monthly from California.

Chairman MILLER. To where?

Mr. BURTON. To the wagon train.

Chairman MILLER. So, they come whether you are in New Mexico, Arizona, or Utah; they come with the wagon train; they come once a month?

Mr. BURTON. Yes; every 4 weeks to 6 weeks we have regular visits—from Alameda and San Diego Counties.

Mr. ALDRICH. I would like to correct one statement there. The State of Arizona regularly puts the statement on their interstate compact agreements saying that when VisionQuest is outside the State of Arizona they don't license or supervise.

Chairman MILLER. In your report it says page S-3, if I read it right—that, although Arizona has not been able to monitor California minors in VisionQuest, not all contracts between VisionQuest and California counties guarantees adequate health and safety for minors.

So, Arizona monitors its children; and California is supposed to monitor its children?

Mr. ALDRICH. Well, sir, there is the interstate compact agreement that says that Arizona is going to but——

Chairman MILLER. Arizona says that they can't do that.

Mr. ALDRICH. The first level is that outside the State, Arizona clearly says they don't; then to the second level that we looked at, there are certain things within the State that they are not able to do. We have correspondence between the counties involved and the State of Arizona, where Arizona stated that they didn't have personnel to monitor on a regular basis.

So, our counties are required to do that themselves because under the interstate compact agreement, the placing or sending agency never is able to abrogate its responsibility, ultimately, it is responsible for monitoring the kids if the receiving State does not. Some of the counties do a fairly good job of monitoring; other counties have never monitored.

While Alameda and San Diego, maybe, there are some other counties that have sent kids to VisionQuest, and don't even visit them.

Chairman MILLER. Is that right, Mr. Burton?

Mr. BURTON. Yes, sir.

Chairman MILLER. So, how long would you have a youngster in a program with a county monitoring them.

Mr. BURTON. We are in constant contact with the county and their probation people. There have only been three children out of the numbers that have been placed by California in this situation, because we have only had kids from three counties other than Alameda and San Diego Counties. The majority of our placements, I think, 110 kids from Alameda and San Diego, have their probation people come every 4 to 6 weeks.

Chairman MILLER. How do you respond to the question that has been made in the press by some of your detractors—I guess, would a polite way to put it—that your methods are unduly harsh, even to the point of cruelty?

It says in the press here that you decided that those people were professionally jealous; is that your only response?

Mr. BURTON. My response, Mr. Chairman, is that the State systems, as we have heard here, have as standard practice of dealing with act-out children, to isolate them or to medicate them or to four-point them or to handcuff them. We don't believe in any kind of mechanical restraints.

We do parent children, and we do restrain them with human beings if they are out of control and we go through the problem with them and work their way through the issue. Isolating the child or medicating him is, I think, a very inhumane way of dealing with a human being.

We have found that there has been a lot of success in being able to work through the problem. And I believe that is when we go to work and I believe that is when the treatment starts working. Because those things usually result in coming up with some of the inner-dark secrets that kids are so hostile and angry about.

Chairman MILLER. How do you refine recidivism? You state that Rand Corporation is going to find, I guess, that you are a successful program, or that you have a low rate of recidivism. How do you define it?

Mr. BURTON. Well, what the Rand Study based their things on re-arrest on being out of the program for a year or 18 months. They studied the first 100 kids that we took from San Diego County, and they studied 248 kids that went to a local county camp, that were less serious offenders than the kids that we took, and then they took the kids that didn't go to VisionQuest and went to the California Youth Authority. The thing will show that about 70 percent, or 72 percent of the kids out of the 248 kids recidivated within the first year. It will show about 54 percent recidivism, or had been re-arrested after the first year at VisionQuest.

Now that is the first true scientific study that was done that way. The kind of kids that we are dealing with, again, had been multiple offenders and had been arrested over and over again.

We have found that of the majority of the kids that we are dealing with, the ones that are arrested, get arrested once, they continue their lives without being in institutions.

Chairman MILLER. Is that what the Rand study says?

Mr. BURTON. The Rand study will show a rate of 25 to 50 percent better on all different kinds of offenses. We have been more successful, have had less offenses, especially with what they call safety crimes, that means crimes against people. We have a 50-percent lower rate with safety crimes.

Chairman MILLER. How many on your staff have college degrees?

Mr. BURTON. Probably half of them, or less than half. I find that the universities in this country don't train anybody to be a child-care worker.

When you talk about child-care workers I think that comes down to whether you can do it or not, and then train that person who can do it. One of the advantages of being an organization, such as ourselves, is we recruit nationally, and we hire people with all kinds of backgrounds and all kinds of credentials.

We have a medical director; we have four psychologists; we have a dozen social workers that work at VisionQuest, out of the 600 staff. The majority of the staff are people who have been in professions or have had college degrees, other than in social services degrees, and want to work with kids, and are involved on a 24-hour basis.

Chairman MILLER. I don't know if I can agree with that. I think to make the blanket indictment that universities can't teach somebody how to be a child-care person——

Mr. BURTON. They can teach somebody the theory.

Chairman MILLER [continuing]. Is merely a clever statement. Nobody is asking you take somebody the first day out of the university. The question is whether or not you have people who have training and background and understanding some of the problems that you children encounter.

Obviously, I guess, there is some belief that you can overcome every youngster with brute force, but also you have to have some competency in understanding the problems that you are viewing.

Mr. BURTON. I agree with you. I don't know where brute force came in.

Chairman MILLER. I mean the notion that you can't learn this; or that the universities can't teach this, I think, is——

Mr. BURTON. Well, if they would teach it, that would be great; they are just not teaching that.

They are not teaching anybody to be child-care workers; they are teaching somebody how to be a professional. They are teaching somebody——

Chairman MILLER. I think that is a clever statement to escape the fact. To degrade the term professional is ridiculous, in a blanket statement.

Mr. BURTON. Well I am talking about——

Chairman MILLER. The impression is whether or not there is competent people that have both the ability and the competency to do so.

Mr. BURTON. And I agree with that; I hire people that have the ability to work with children and are competent.

Chairman MILLER. And the question of their degree or their background and training is a relevant question.

Mr. BURTON. I think a college credential of working with children. There have been studies that showed that there has been a counterproductiveness of working with children with certain college degrees that have to do with child care.

Chairman MILLER. I would be very interested in seeing the study. Why would you put a kid in the pit?

Mr. BURTON. In a pit; I wouldn't put him in a pit.

Chairman MILLER. What is the allegation made that you put a kid in a pit until they have worked their way out and come up with——

Mr. BURTON. Well, on the wagon train, there is a perimeter which is made up by the wagons, the teepees are set up inside the perimeter of the wagons and there is a firepit in the center of the camp. People call that the pit; we call it the "center of attention."

If a child has gotten out of control, has tried to run away, for his own safety he is put at the firepit, in the center of attention, where everybody can respond to him as they are doing their responsibilities in camp.

Chairman MILLER. This is level ground, or is this a pit that has been dug? It is suggested to me that this is a 6-foot-deep pit; is that inaccurate?

Mr. BURTON. Yes.

Chairman MILLER. How long would a child stay in the pit? What is your description of the pit?

Mr. BURTON. My description is it is the center——

Chairman. MILLER. Is it the campfire?

Mr. BURTON. It is the center of attention. They are put in the center of the camp.

Chairman MILLER. Are they just standing on their ground? What are they doing?

Mr. BURTON. Well, that is where they stay; that is where they will sleep until they get out of the center of attention and go back to their teepee family.

Chairman MILLER. And then what? What do you mean "get out of the center of attention?"

Mr. BURTON. Well, it is a matter of whatever the issues are that have gotten them to that point, get resolved and get worked through and then they get out. To me that is not isolation, that is being in the middle of it.

I am saying the accepted way of doing that is to—and I even had someone from the youth authority say, why don't you make one of your wagons a jail wagon and you could put them in there. I think that is inhumane.

Mrs. JOHNSON. Mr. Chairman?

Chairman MILLER. Yes.

Mrs. **Johnson**. I think we are having difficulty envisioning what this center of attention is. I think your point is well taken that isolation as punishment is destructive.

How does one know where one is in this center of attention?

Are there any constraints; are you out in the ground and you lay your blanket down; what are you talking about?

Mr. **Burton**. I am talking about when the child is put in the center of attention, which is what we call it. We have had detractors call it the "pit," coming from the word firepit, because the firepit is in the center of the camp. Some kids sleep at the firepit, if they work during the day. If they are not moving that day, they will be staying right there at the center of attention.

The center of attention means that is where everybody gives the kids attention. That is where all the issues are dealt with; that is where——

Mrs. **Johnson**. What kind of attention?

Mr. **Burton**. If it is a runaway issue, say, the kid wanted to run away, and we take and put him in the center of attention and we will talk about, why has he attempted to run away, where is he going; what is the issue.

Mrs. **Johnson**. Are there staff people that are assigned to the center of attention area?

Mr. **Burton**. Yes, ma'am.

Mrs. **Johnson**. So he never there alone?

Mr. **Burton**. Yes, ma'am.

Mrs. **Johnson**. Are there other young people at the center of attention?

Mr. **Burton**. Yes, they are right there. Well, they are right there because their jobs——

Mrs. **Johnson**. Do they come and go between their jobs and coming in and talking with this person?

Mr. **Burton**. Yes.

Mrs. **Johnson**. What is the nature of the conversation?

Mr. **Burton**. The conversation is usually directed toward their families and what has got them in the situation that they are in, how that relates to why they are in corrections or why they are in the juvenile court system. It usually gets directed very quickly.

Mrs. **Johnson**. Thank you.

Chairman **Miller**. How long would you stay in the center of attention?

Mr. **Burton**. It could be an hour to 2 or 3 days.

Chairman **Miller**. What about educational programs for the youth on the wagon trains?

Mr. **Burton**. Kids are involved in 4 hours a day of education on the wagon trains, and the impact programs——

Chairman **Miller**. Who would their teachers be?

Mr. **Burton**. Their teachers are certified teachers.

Chairman **Miller**. They are?

Mr. **Burton**. Yes.

Chairman **Miller**. What curriculum would be used?

Mr. **Burton**. The curriculum is a nonlevel grading system that is based out of the computer buses that they work in. There is school bus on each wagon train that has four banks of computers, has audio/video materials, and each of the 20 seats have desks and they do 4 hours of school there compared to the in-teepees where they have individual studies, GED. The requirement is for 4 hours a day of education; we just don't get paid for it.

I think that is where the issue——

Chairman MILLER. How do you answer the auditor general, who says on page 18 that 4 of the 25 youths in their sample were not enrolled in programs which could be reasonably be expected to complete by the age of 19?

For example, one youth who continued in VisionQuest for nearly 8 months past his 18th birthday, expressed a desire to prepare for the GED test. Passing would have qualified him for an Arizona high school certificate.

However, the summary states that during the 5 months before his discharge he maintained animals and completed chores but was not studying for the GED test. In addition, the youth's achievement scores according to VisionQuest records show that he was from 5 to 8 years below grade level in math and reading and well below the level necessary to take the GED.

We could find no indication in the youth's file that he was enrolled in either an academic or vocational program and that he would finish before age 18. Is that a requirement or is that a finding, Mr. Aldrich, is that a requirement of California law?

Mr. ALDRICH. There is a requirement that beyond the age of 18 a kid can't receive foster care funds unless he is in a program that he can complete——

Chairman MILLER. So this goes to the earlier finding on the money that you think——

Mr. ALDRICH. That is right. And part of that problem is that California hasn't really defined adequately what that continuing education should be.

There has been inadequate monitoring of VisionQuest's Program. We found those kids were definitely in programs that we could tell as auditors were not the type of thing that should have been approved.

Chairman MILLER. So what is going to happen to that money that—AFDC foster care money?

Mr. ALDRICH. We are telling the State agency that they should cut off funds for kids in programs like those, who are beyond age 18, and in addition they should clarify their guidelines as to what constitutes a suitable academic or vocational program because there has been some confusion on the part of VisionQuest and the country probation officers who administer the program as to what exactly is required.

Chairman MILLER. Mr. Burton.

Mr. BURTON. I think it is the difference in the State, Mr. Chairman, that California under their regulations, if a child is not a prescribed educational thing after age 18, the funding stops. Of the other 15 States that we deal with, the majority of them have custody until 21 years of age, or the majority of our kids are from the State of Pennsylvania where they can stay in a placement not based on an educational program.

The educational program, like the auditor says, is on a wagon train, when the kids go to 4 hours of school a day and move 20 miles down the road and set up their homes, take their homes down, get ready to do the same thing the next day, prescribed program would be back in a residential setting, in a licensed school, in the State of Arizona. See, our schools are not licensed on the wagon train.

We have certified teaches, we have educational programs, but they don't license a school bus on a wagon train.

Chairman MILLER. Well, I am a little skeptical. And I am a little concerned here that perhaps this is a subterfuge to get around requirements, that whether you agree with them or not, that States made some determination about the educational requirements and professional treatment of children. I may be proved wrong, but I am a little skeptical at this point.

Mrs. Johnson.

Bob, do you have any way of tracking your young people's educational progress during the time they are with you?

Mr. BURTON. We do a pre and post test, educational needs, when they are coming in the program. And again, that is——

Mrs. JOHNSON. When they come and when they exit?

Mr. BURTON. When they exit the program. But that is probably one of the more—that is one of the things that we are not as consistent with as the treatment issues of dealing with the children, about their families and about what has led them into the criminal activities that they are involved in.

Mrs. JOHNSON. What does the tracking show about their education progress?

Mr. BURTON. They, under the California—I am trying to think what the euphemism of—they show that there is a gain of 1 to 2 years educationally.

The majority of kids that we get have been out of education before they come to us. They have been like 2 years out of an education program. And the majority of the kids that leave our program go back to public education. They go back to their communities and they go back to public education.

Mrs. JOHNSON. And the average is 1 to 2 years progress in what length of time?

Mr. BURTON. Over 1 year period.

Mrs. JOHNSON. Over 1 year period.

So at least they are not losing ground?

Mr. BURTON. No.

Mrs. JOHNSON. You have every reason to believe this?

Mr. BURTON. Yes.

Mrs. JOHNSON. In computer education where they can move at their own rate, do you see any making catch-up gains?

Mr. BURTON. In mathematics we do. It seems like the computer thing is very strong on math. Reading skills and language skills it doesn't seem to be as effective as the math.

Mrs. JOHNSON. What percentage of your kids are literate?

Mr. BURTON. Well, like I said, the majority of our kids have not been in school for several years and it is probably around the national average where 60 percent or 70 percent of our kids are literate.

There is a big percentage of children that have learning disabilities, or behavior disorders that lead to their lack of going to school. Those are usually disruptive and they don't deal with a traditional classroom.

Mrs. JOHNSON. I would like to just put into the record something from your written testimony. It is a quote from Judge Robert O'Neil of the San Diego County Superior Court.

He says:

> The bottom line is that every observer who has gone to view VisionQuest, with no axe to grind, has come back a supporter. This is true of medical professionals and criminal justice professionals. VisionQuest is different. It does create problems for bureaucracy which does not tolerate creativity well, but does more than any other program I have seen to approach the goals I have for the rehabilitation of delinquent youths.

I think that is a very important quote, and that is why I wanted to read it. In my work with these kinds of programs in Connecticut, I went to visit a similar kind of program in Maine, which had undergone a similar type of attack from the public. This program was based, on strong structure, on great respect, and on a constant attention to an individual.

The more unhappy that individual was, the more the community bonded around him. The program had something analogous to your "pit."

The point that must not be missed here is that being at the center of the community—and I have resulted in intense focus on that one individual and the choices we were making for him.

Incidentally, this was a for-profit agency, and proud of the fact. They were dealing with the kids that were so violent that we couldn't deal with them in Connecticut. We were sending them people that we couldn't handle—and their staff to child ratio was half of what it was in our State institutions for 16-year-olds.

The worst institution, the least programmed, the least child centered, the least positive in spirit was the state institution, with twice the staff ratio. That agencies in our communities need to focus on the family and, need to be coordinated, should be instructive to us, and something that we must not lose trace of as we try to figure out what to do.

Clearly licensing hasn't worked. Licensing can't take a holistic view. We don't know we don't know how to regulate programs for children. It is very hard for us to monitor quality, and yet we cannot shirk our responsibility to do so.

I just would share with you one incident from this other program. When a kid was not achieving in school, that child had to wear a dunce cap; I mean a big dunce cap, four feet high.

The responsibility of the community to someone wearing a dunce cap was to constantly ask them why a 16 year old was sitting there with this big hat on his head?

Well, you could see people walk up in the course of their work and say, why are you doing this to yourself? In other words, the issue was we don't care if you can't read or write; it doesn't matter to us; it is not going to hurt us. But it should matter to you, because it is going to hurt you. Why are you making that decision for yourself?

And what was so interesting about this program was that over time it did help kids to realize they had control of their lives. And that is the fundamental message that children at some point have to understand and find the capability to manage.

Their reaction to motivating a kid who when in the education program—and the program was certified in a school district within the State, with excellent facilities It also cost the State of Connecticut less to have a child in that program than it did in any other State programs.

Mr. BURTON. It does for us, too.

Mrs. JOHNSON. That is interesting.

I think that just because you receive criticism we can ill-afford to check you off as not educating children. On the other hand, I wonder if you shouldn't be devoting more energy to responding to criticism and explore other objectives for the kinds of approaches you are using in family couseling and what is the relationship between individual behavior and family problems, but stressing the importance and power of being educated as well.

One of the most touching hearings this committee ever had was in a housing project here in DC where a young man talked about how he suddenly realized how important school was.

I mean, that young man was a real advocate of education, that young kid was it. That is part of the message that you need to get across.

Mr. BURTON. Mrs. Johnson, I brought a young man who has graduated from our program here today; he was a Pennsylvania child who has been a inner city kid who went to VisionQuest several years ago. He has graduated and come back to work.

Now somebody will say, well, he didn't go to college. But he is an officer in our Buffalo Soldiers, which is a reenactment of the 9th and 10 Calvary, Indian War Calvary, who probably did more to settling the West, than our history books want to tell anyone.

When someone criticizes us for not having the majority of our staff being college graduates, there are lot of people in our society that are in the work force, that have ability to do something, and they don't necessarily need to go to college to be a child care worker.

My point about education was that you can manipulate symbols and you can talk theory but until you get there you don't know whether you can live that lifestyle and be involved with a barrage of anger. That is where the controversy of this field comes from.

Of the 600 children that I have, they are angry. That emotion and that aggression that they have gets directed somewhere.

Mrs. JOHNSON. Why do you teach them to be an Army?

Mr. BURTON. What we teach them is to have a sense of pride. We don't teach them as an Army.

The kids have gravitated to that. They have evolved it out of the history books. Finding out about the Buffalo Soldiers, they were a group of black men that as an Army had the least desertion rate, and the generals wanted them next to them because they were such reliable soldiers.

After the Civil War, when they disbanded the Army and they restated the U.S. Army, that is when they had a black calvary and a black infantry, until Harry Truman integrated the Army. The Buffalo Soldiers had a very courageous career all through the world as a fighting force.

And these young men, they take that—I get kids from Philadelphia, Pittsburgh, Oakland, and San Diego, CA, that are usually involved in gangs. In an institution you don't give them any substitute for what they are looking for when they are looking at a gang.

It seemed like the Buffalo Soldiers has a positive image, and they take the responsibility to do that. They go around and march in elementary schools for minority kids, and little kids, telling them the history of the Buffalo Soldiers.

You can see it, the pride they have in what they do, and that is a substitute for the gang. Institutions, all that does is breed a bigger gang or a stronger or negative gang.

Having something that is positive—I have never been in the service, and I don't go toward having people carry guns or anything—but they wear uniforms, they ride as a light calvary unit. They just did 130-mile ride with the Geronomo surrender from Skeleton Canyon to Fort Bowie, about 2 weeks ago, and they rode as an 1880, light calvary, where they have everything on their saddles.

They have their bedrolls, they have their canteen, and when they get there, they set up their camp. And to me it breeds something more than the dependence of institutions.

Mrs. **Johnson**. It certainly may foster a greater knowledge of American history than in many of our high school graduates, and, in fact, in many of our college graduates.

I appreciate the challenge to the system that your program poses. The concept of building programs on structure and respect, and the challenge to the bureaucracy of being able to supervise without strangling new approaches is a very real one.

Mr. **Burton**. I also have about eight spaces available for Saturday to Sunday, we are sailing out of Annapolis, Maryland, with a Tall Ship, that we go from Maine to Florida with. There will be 22 kids onboard.

It is very Spartan living when you are on a ship that is only 100-feet long, with 30 or 40 people. The proof of the pudding of VisionQuest is seeing it, like Judge O'Neil said.

You can hear all of our critics—and I think our critics have something that they are not wanting people to get to—the amount of kids that are incarcerated in this country. There are a lot of people protecting their jobs, or protecting unionism, or whatever—it is against the law in this country to work over 40 hours a week unless you pay somebody time and half.

We take children that need parenting and try to move into a shift situation where they can only see somebody, you know, 5 days a week, one shift a day, and nobody can get relationships with them. The issue of—I heard the lady say it earlier today—that they had two counselors for 47 kids, although that institution had the same amount of staff that I have, but because they are in a professional thing, where they are in the psychological department, or they are in the medical department, or they are in the education department, that kid is left in a dormitory setting with two staff. Yet, if they have 600 kids, they have 600 staff, but those staff aren't with those kids.

In VisionQuest we are on a wagon train; we have 60 kids and 48 staff; they are there 5 days a week, then they are off 2 days a week; and they are there 24-hours a day.

An institution doesn't have that kind of ratio. You have got two staff with those 60 kids. And then that one staff has to take that kid over across the lawn to the psychological department, and then to medical department, and everybody is moving the kid, nobody goes with the kid.

When we turn around and go—we have been in 48 states, in the last 10 years with the wagon train. We have done 125,000 miles. We go right down the highways and streets of America; people are seeing what we are doing.

We are not hiding it; we are not taking it out—you can say the pit, but there is love involved with what I am doing. There is a relationship involved in what I am doing.

Mrs. JOHNSON. Thank you; I commend you.

Chairman MILLER. Mr. Coats.

Mr. COATS. Mr. Aldrich, in your investigation of VisionQuest, did you make any attempt to measure the effectiveness of the program?

Mr. ALDRICH. No, sir; we did not.

Mr. COATS. So you were just attempting to determine whether or not there was some failure to adhere to the laws of the State of California, the regulations?

Mr. ALDRICH. As I said previously, our primary focus was to find the number of kids being placed out-of-State, where they were being placed, and the propriety of the expenditures of funds for those kids placed.

In deference to what Mr. Burton may say about measured effectiveness, I don't think you can do that on a short-ranged basis, like is being discussed here. You can't just look at recidivism for the first 100 kids and say VisionQuest is better than any other system.

Mr. COATS. But you weren't attempting to evaluate that?

Mr. ALDRICH. We didn't attempt to do that. We didn't have the time nor the resources to do that within the time allowed.

It was strictly an accountability type of review, and not a programmatic review to determine if VisionQuest was more effective than another program.

Mr. COATS. So your report—which I just received this morning and have not read, does not report any evidence of abusive situations.

Mr. ALDRICH. We did not say VisionQuest was good or bad.

Mrs. JOHNSON. Will the gentleman yield?

Mr. ALDRICH. We don't make any recommendations to VisionQuest. We make our recommendations to the State agency. There are a lot of allegations about what VisionQuest is and is not. When you get to the root cause of whether an allegation is valid or not; you ask, what did the State do about it—was there a licensing requirement that said they couldn't do this type of thing; was there an inspection made by the State to see if that abusive situation really happened? As auditors we can't and don't buy into the press releases of various allegations about what happened. We have to have some hard facts; and we don't have those.

Mrs. **Johnson**. What I understood you to say earlier was the State agencies hadn't made their standards and requirements clear and consequently it was difficult to say whether this money paid for the services provided.

Mr. **Aldrich**. In some instances, that is true. When you get down to the education beyond 18, what are the real requirements?

There is a chance there are different interpretations of what really was required. I think that the most damaging situation is that the State agencies didn't follow through on their responsibility to find what was really required.

Mr. **Coats**. So there apparently was some confusion, or at least, difference of opinion as to what was required; and that would affect, I would guess, what you measured? You are dealing with a nontypical program here.

I assume it would be easy to go into a State institution that is trying to follow, jot, and title all the regulations of the State, and measure the fiscal accountability for that. But when you have a program that really is outside the system, trying to approach the problem from a different side, I would guess, it makes it pretty difficult to just draw straight lines between the regulation and the fiscal accountability, or regulatory accountability to that regulation?

Mr. **Aldrich**. Yes, in certain instances that is true. Because the basic finding of this report is the unlicensed status of VisionQuest facilities—VisionQuest will argue that—and some people in the State will say, well, VisionQuest doesn't fit the State's licensing mold. Other people say, well, we can make it fit, if we wanted to.

So we are saying that you have a law that says you can't pay the money unless they are in a licensed facility. Now, either you have got to stop paying the money or you have got to change the law; you have got to do something.

So that is our charge to the State agency: you have a law saying that you can't pay this money unless they are in a licensed facility. Now, you have to cut off the funds or do something different.

Mr. **Coats**. Well, Mr. Aldrich, I know it is not your responsibility to draw conclusions from all that. It seems to me that the conclusion that we draw is that we are trying to put everybody into the same square, force everybody into the same peg, and what we end up with is a system that—is a far cry from what any of us would desire, and that is, of course, the problem that we run into.

There is a need for oversight. There is a need for accountability. But sometimes we so narrow the spectrum into which a facility can fit that we end up with nothing but a uniform disaster, uniformally applied across the spectrum.

We meet the requirements of the law, but we are not treating the problems or the symptoms. I am really not asking you to comment on that.

Mr. Burton, I know the Rand study has been mentioned before; is there anything more you would want to elaborate at this point about what the Rand study is going to conclude about your program?

Mr. **Burton**. Well, I think what the Rand study will conclude—and I am talking about—Bill asked about first 100 kids. I agree that you can't—you know, we have had 4,000 kids go through our program and it is hard to turn around and evaluate that with 100 children out of a place. But it is the first time that they have been able to do a study of kids that are in the same area, or from the same area that were institutionalized, and then have a followup study on those also.

The idea of doing studies is that it is very expensive, because the Rand got paid by the OJJDP to do this study and it was an expensive proposition, too. I think that the amount of money that was spent on that, to be able to demonstrate something shows that there is some hope in this field.

But I don't expect everybody to go out and get Federal grants to do studies and everything. Money should go toward the programming of children and trying to get children out of locked facilities, because I think that creates the problem. We create dependency on putting kids in locked facilities and—and you say, how does that do that?

If you take a 11 or 12 year-old kid who is very impressionable in trying to figure out where his identity is as an adult, and you put him in a place, wherever you put him, he will want to go back there because that is safe to him. And even though it is a scary place—and some the kids that I deal with, their motivation is fear at times, they put themselves in fearful situations.

When we turn around and put them in junior prisons at 12, 13, and 14 years old, they are going to spend half their natural life there. So we are breeding the problem.

If we could only be fair to children. Life isn't fair to adults; but we should be fair to children.

As far as licensing is concerned; I agree to be licensed. I think we should be licensed, because I think there should be a check and balance.

I think every child should have an advocate and have somebody that is an antagonist at times. Because the only way they are going to get past some the things they are doing is somebody is going to have to face them with the things that they are acting out in this society.

If they are burglarizing houses, or hurting old people, or stealing things, somebody has got to be able to stand in front of them and say, you can't do that anymore. Somewhere along the line you have got to stop.

I feel that sometimes the State can't do that, or won't do that, or shouldn't do that. But somebody who has a relationship, lives with that child, and it is their responsibility, they should be the ones that can do that. And I think that from the religious to the private, to the public sector we should start directing the issues of families toward the child and the child toward the family.

In Erie, PA we have a innovative judge up there who places kids in VisionQuest. They stay a year in VisionQuest. He had them go one-half a year in the impact program and then the other 6 months they go and live in their own homes.

We have them every day from 9 in the morning until 9 at night. Then their families come two times a week to groups that we run at an old boy's club in Erie.

There are 30 or 40 kids at a time in that. We move into the family, if it is out of control.

The majority of families want to work with their children. They want help but they just don't know how to find or where to find it at times.

Mr. COATS. My next question, the last question really, is what was the extent of family involvement—and you heard the testimony of the first panel, and it has been touched on here about the necessity of involving the family in the rehabilitative process. Generally, that is where the problem starts, and if it is going to be solved ultimately it is going to have to be solved within that family context.

Now, how do you deal with that question on the wagon train tracks, and your sailing tracks, and so forth?

Mr. BURTON. While the kids are away they talk to their families through tape recorders. When the issues start coming up about the abuse or the abandonment, or that sort of thing, we audio tape them.

We have a counselor go to that kid's home and let the parents sit down and listen to that, and then we audio tape their response and we take it back to the kids. The kids never actually leave the family because we keep the family intact. But they are banished, and they have to understand that somewhere along the line that if they keep acting like that something has to happen.

The banishment becomes a positive kind of banishment, though, because then they resolve some of the things that are going on in the family. You don't necessarily change the family, but if you could clarify for the family what has been going on with them and their family for generations. We find, when we get into these things, these issues have been going on from father to son, or son to daughter, or mother to daughter—and there should be an 11th Commandment in our religious things that we should do with children, because the biggest major issue I find with children is parents shouldn't have sex with their children. There should be an 11th Commandment somewhere, thou shall not commit sex with your child.

It doesn't say that anywhere in the Bible. We live in a society that feels that they can do things to their children because they have their name on them. Somewhere that doesn't get stopped, or doesn't even get talked about. Nobody talks about that.

But if you went through death row somewhere, in most of the country, you will find that the rage that most men are acting out when they are involved in violence is usually the anger that they have, by somebody in their family or somebody in their immediate neighborhood, who has taken advantage of them sexually when they were children.

But nobody talks about that. Everybody wants to talk about how many crimes you did; how much drugs you used; and then educate the kids what the substance of the drug is and how much crime is being committed. It comes back to the family issues, it comes back to the confusion that is going on and the abandonment and the fragmentation of the family.

We feel that when a kid comes in a program, that his whole family comes in. The majority of our kids come from single-parent families, mother-dominated families, but there is always some relative that they are attached to, or connected to, either aunts, uncles or grandmothers.

Believe me, when you take a kid and put him in an institution somewhere, the first place he goes when they say, where are you going to go? He says, "I am going home." He will go live right where he lived before he came to you even though horrendous things have happened to him in that family.

So instead of making major kinds of psychological changes in the family, if you could clarify what is going on in the family and everybody accept it, then you get out of who is the victim, and the issues get clear, and kids go on and become healthy kinds of adults, especially when they realize that they have to be father of their family or the mother of their family. We talk about that all the time.

Mr. COATS. Well, I want to mention to you, Mr. Burton, one of our minority staff members is going to sail with you this weekend, so I guess you are down to seven slots now.

Mr. BURTON. I have got seven more slots, if anybody wants to go.

Mr. COATS. I am glad to have that person going with you and look forward to his relating his experience.

Finally, Mr. Chairman, just to state a personal thought here. I have not evaluated VisionQuest beyond some limited knowledge of it and what I have heard here this morning.

But I would hope that within whatever system we come up with, we allow the flexibility for operations like VisionQuest, who are willing to look and work outside the system to find innovative and creative ways to bring about help, needed help to our young people. That within the structure of accountability, as Mr. Burton has indicated is necessary, we also allow for the latitude to get outside the system and do some things that, perhaps, aren't traditional but are effective, as long as they are done with the ultimate goal of rehabilitating the child, and that love for the child is the absolute cornerstone of what they are doing, that we can allow these things to happen.

I am just fearful that we so structure the system and so regulate it that we only end up with the kind of problems that we heard outlined by the first panel, where you have a progressive State, like the State of Maryland, with apparently sufficient funds, ending up with some of the horror stories that we heard this morning.

With that I think I will yield back to you.

Chairman Miller. Thank you.

Yes?

Mrs. JOHNSON. I have to leave, and if I could just make one closing comment?

Chairman MILLER. Sure.

Mrs. JOHNSON. I want to commend you on your courage. It takes a hell of a lot of guts to go out and do what you are doing.

I hope that this committee will be sensitive to the strengths of your program, to a holistic approach.

Your program may not be perfect; we have to have a better way to monitor your program. But you do offer a good alternative.

I only know of one other. But I do know that there are programs that are offering kids, tough kids, mean kids, lost kids, violent kids, an opportunity that in most communities and in most States, isn't there. The only choice we have is to create a structure that allows the creativity like yours, or we might as well give up.

I really wanted to end by saying that I appreciate the holistic approach you are taking with these kids, and the tough relationship you have made with them. I appreciate your being here today.

Chairman MILLER. Let me thank the panel. But let me also say that it is not an issue of traditional versus nontraditional, or State-run versus private-run, profit, or nonprofit. The issue is what is good for the kids.

I have spent most of my life trying to get kids out of locked facilities and tightly run systems, because I agree with what most people said, that the vast majority of them don't belong there. I do, however, strongly, strongly believe that the State has an interest in making sure what happens to those kids and monitoring what happens.

VisionQuest, I don't have any opinion really one way or the other. I have read all the criticism and all that. I don't know whether it is accurate or not.

But I can take you up to Rights of Passage, where the gentlemen will make exactly the same speech you just made, Bob, and he has got kids sitting out in the desert in the middle of the night with no clothes on, and a filthy rotten situation. And it is in the name of alternative care.

This is a field that has—and I have worked with and sponsored all kinds of alternative programs; we should encourage that. But we still have the right, especially when we are paying the bills, to ask the very central question, is this good or bad for the child?

Now, there is no question there are a lot of people asking that question that have an axe to grind, or don't like the way somebody else is running their institution, and we try to arbitrate that. I think that is one of the things we try to do, and other people certainly at the State level should be doing that.

It is not the issue of what form it takes. The question is what are the results and what is happening to children. Because we know, as the First Lady of this Nation found out, you can embrace something because it is nontraditional, it is not part of the State, and you can be dramatically embarrassed because a nut was running that program.

Obviously, you see we would like to encourage pluralism in dealing with this problem, because nobody has a monopoly on what works with these children. I have members of my family that worked in programs very similar to yours.

I don't know what I would do with these kids. Some of these kids are as tough as any I have ever seen. They have some success. They work with them. They work with them when the State gives up, and the schools give up, and everybody else gives up, and I admire them.

It is slow. It is hard. It is difficult. But they also still have to answer some questions about what they are doing with those kids.

I have seen this field littered over the last decade with people who figured out for $13 they could take care of a kid, and they could get paid $300, and then if they drugged the kids, they could take 150 kids instead of 100 kids, and then if they locked their kids to their bed they could make more. There are a lot of people who think these programs are cash registers.

There are a lot of States that don't much give a damn as long they can get the kid out of their sight. I don't know where you put all the culpability, but I am willing to put the vast majority of it on the backs of the States and the State agencies. Because the problems Mr. Aldrich has is Contra Costa County, Alameda County, and San Diego County don't know what the hell they want to do with these kids.

They don't really much care. They don't know if they want to call your facility a locked facility, or because you don't have bars they should call you something else. They don't know whether you should have money, or you shouldn't have money. I appreciate those problems.

I think that the State has a long way to go to clean up their act, especially when we see what we heard from the first panel and from other testimony that this committee will receive. But the purpose of this hearing is not to pass judgment; you have enough detractors without us keeping an eye on you for the time being——

Mr. BURTON. Mr. Chairman, since 1981 I have been trying to get licensed in California, and if you can give me a hand, I want to go there.

I am not hiding on an Indian reservation. I am trying to bring it right into the community so that they can deal with their families.

Chairman MILLER. We appreciate that.

Thank you very much for all of your time and all of your help to this committee.

The next panel, the last panel that the committee will hear from today is made up of Peter Schneider, April Kerr, Lenore Behar, and Jeff Rosenberg.

Welcome to the committee.

Peter, we will start with you. You proceed in the manner in which you are most comfortable. Your prepared statement will be included in the record in its entirety, if you have one. You can go on from there for the next few minutes.

STATEMENT OF PETER SCHNEIDER, PROJECT DIRECTOR AND NATIONAL COORDINATOR, RESTITUTION, EDUCATION, SPECIAL TRAINING, TECHNICAL ASSISTANCE, RESTTA, BETHESDA, MD

Mr. SCHNEIDER. Thank you very much, Mr. Chairman, let me say that I——

Chairman MILLER. You may want to put that in the record and if you want to comment on what you have here——

Mr. SCHNEIDER. I have a prepared statement and I would just as soon it be entered into the record. Let me paraphrase it, if I may?

Chairman MILLER. Sure.

Mr. SCHNEIDER. In the interest of time, because I do admire the patience of you and the other members of the committee in sitting through this; it has been a long morning. But it also has been an interesting morning for me and I am sure for you as well.

I, like you, am concerned about the abuses that we have seen in the system. I also admire the efforts of some people like Mr. Burton, in trying to bring some alternative types of programs into the system that come from the outside and do involve innovative practices.

I think you have seen, though, so far, each end of the spectrum. I think you have seen some of the abuses that have occurred with some of our people that are incarcerated in facilities, that are not for offenders, but they wind up in those facilities as a result of being a status offender, as a result of being someone who needs some kind of shelter and some kind of care and simply gets enmeshed in the system for those reasons.

The kind of program Mr. Burton has is designed for the extremely serious offenders—the kind of person that the State has had a very difficult time in dealing with and the kind of person who would very likely become a career criminal. The kind of intense supervision that his provides may indeed be worthwhile.

What I would to like to talk about is an alternative program for the vast majority of the people that become involved with the system as offenders, ranging from the minor offender, a person who has committed a minor crime, but it is a crime nonetheless, up to a serious personal, or a serious property crime, and what do they do with these people.

The institutions, as you well know in your own State, are becoming increasingly crowded. I just had the privilege of visiting two of the institutions in your State.

I was given a chance to go through the youth training school in Chino, which sort of lies at one end of the spectrum. It is a maximum security like institution with over, I think, 1,500 wards incarcerated there.

On the same day I was able to go over to the Ventura School at Oxnard, which is—while it is still a secure institution, it is much more like the campus of a small college. It is coeducational, and there is obviously much more freedom.

Excellent programs exist at both of those places but the superintendents of both of them expressed the concerns that they have about crowding in those places. They are saying that double-bunking is a very common practice, putting two wards in a room that was designed for one, or four in rooms that were designed for two.

They had to go into some of their space that was given over for recreational use and converted to living space. And that means that there is a diminishment in the programs that can be provided.

They are saying that they are getting close to a warehousing situation in which people basically languish, with very little services and very little opportunities to do anything.

That is the problem. Why are they overcrowded? Prisons, perhaps like society, are sort of schizophrenic, people are there for all kinds of reasons. Prisons are there for punishment. And there are a great many people who sentence young people to institutions because they ought to be punished.

But there are just as many judges, perhaps—I certainly know some, you certainly know some—who believe that these institutions provide positive environments for these young people, and they are going there for treatment. They believe that is better for the youth to be in that institution than it is to be in his own home. Some judges have told me that anyone might benefit from a little time in the youth authority.

Perhaps the most realistic reason for incarcerating anybody in the institution is for the protection of the public safety, for somebody who is dangerous to himself or to others or to society in general.

I think that the institutions ought to be reserved for that class. I think that the other kids who are placed there shouldn't be placed there.

If there is anything that we can do about overcrowding, which contributes to the diminishment of services and which contributes to the problems that we have heard about, and the problems that Mark spoke about so eloquently a few hours ago, is that we should keep the kids out of the institutions.

The program that I represent, which is a Restitution Education, Training, and Technical Assistance Program, is designed for that purpose. It is designed as an alternative to incarceration.

The central element of this program is restitution. Restitution is an age-old concept; I am sure that everybody here has heard about it. It is mentioned prominently in the Old Testament, and in the Code of Hammurabi.

It has gained a lot of attention in the 1980's and the late 1970's because it sort of brought together two movements in the justice field. It brought together the dissatisfaction that people were seeing with the juvenile justice system and the traditional treatments that were available.

It also brought together the growing victim rights' movement, and the belief among a great many victims that they were the forgotten party in the justice process, and that they deserve a role in the courtroom just as much as the public and defendant have a role in the court.

Restitution was supported by the Office of Juvenile and Delinquency Prevention, and a large initiative began in 1978, and ran until approximately 1982. I, as a research scientist at the Institute for Policy Analyst in Eugene, OR, was selected to conduct an evaluation of that program.

Later we took some of the results of our evaluation and we ran a small pilot training program, and the pilot training program grew into the project which I currently direct, which is called RESTTA, which is the acronym for Restitution Education, Specialized Training and Technical Assistance.

Restitution is the payment of money or the provision of services to either the victim or indirect victim of crime. It is a very simple concept. The way that it can be used, I believe, to reduce the problem of overcrowding in institutions, is first of all, it can be used for offenders who would ordinarily be placed on probation, and who if they were to fail probation might wind up in an institution.

It is effective in reducing overcrowding for that reason, because so many people that are ordered to pay restitution succeed. The success rates, in terms of completing all of the requirements of restitution are really impressive.

They run in the order of 80 percent to 90 percent in the national average, and based on the research that we did is 86 percent.

Another way in which it can be used is it can be used as a way of decreasing the time that someone spends in an institution. There is a good program in Ventura County, CA, in which youth who are sentenced to juvenile hall are given the option of going to a work-release center.

While in the work-release center they are permitted to sign out in a real job on the outside and earn money to pay their victims for the crimes that were committed against them. The time that they spend working is counted as good time, and it contributes to a reduction of the time that they have been sentenced to in the institution; they can be released early.

We are also supporting the idea of restitution being used as a condition for parole, so that wards or inmates in institutions can be released from the institution early on the condition that they make restitution to their victims. It is also being experimented with in another level, and that is within the institution itself, and I would like to see more of this done on a national basis.

You probably are familiar with the Free Venture-Private Industry Program, which is operated by the youth authority; the reason that I was visiting those institutions was to observe this program.

The differences in the Free Venture Program is that it is a work place which is provided by private industry as a profitmaking venture for the purpose of making money. The institution benefits because it is a program which provides the inmates with some marketable skills, with an occupation, something realistic to do while they are in the institution.

Those victims of those inmates, and the victims generally are benefited because 15 percent of all of the money that these kids earn, and they earn the minimum wage and up, depending upon the job that they have in one of these programs, is paid into a victim's compensation fund. They also pay, I think, 20 percent of their income toward their own room and board, which reduces the cost of housing the inmates in these institutions. It makes more available for programs.

Restitution programs are also effective, I think, in reducing institutionalization on the front end because they have been shown to be effective in reducing recidivism. You have heard about scientifically based studies this morning which claim to show differences in recidivism rates among kids who are in, for example, the VisionQuest Program, as compared with those who are in a CASSP situation, or those who were in an institution in the YA.

Those studies are based on selected comparison groups and not on true control groups. The studies that we conducted, multisite studies, conducted in five different locations over a period of a number of years, were indeed experimental studies.

An experimental study differs in that in an experimental design youths are randomly assigned to one kind of a treatment program or the other. These youths have been tracked over time to see if there are any differences, in this particular instance in a reoffense rate.

The beauty of an experimental design, based on random assignment, it is all the confounding factors that contribute the likelihood of a youth committing another offense are automatically controlled, because the youths are indeed placed in those groups on a random basis.

Let me tell you about two of the studies that we conducted as a part of the restitution evaluation. One, you would be interested in, because it was in Washington, DC; another one because it addresses directly the issue of the use of restitution as an alternative to incarceration.

The Washington, DC, study is interesting because——

Chairman Miller. Excuse me; the extent that you can summarize because I have just been put on notice that we are going to get very close to a vote here on the tax bill. I am afraid——

Mr. Schneider. I would be glad to summarize this very, very quickly.

Both of these studies show that the youths that went through the restitution program had lower rates of recidivism than the youths that were in the alternative program.

In Boise, ID, the alternative program was institutionalization. All of the kids who were sent to an institution were placed in an assignment group and they were randomly assigned into restitution, being permitted to remain in the community, or they were sentenced and they served time in the institution.

The kids who were in the restitution experimental group recitivated at the rate of 53 percent. I am not proud of it; it is nothing to be proud of. But that is less than the average rate of recidivism for alternative programs.

The kids who were in the institution recitivated at the rate of 59 percent. Think about the cost effectiveness in comparison of those two kinds of treatments. You are keeping the youth in the community, spending about the amount of money that is spent on probation as compared with the cost of institutionalization, knowing that you are not going to do any better in terms of preventing that kid from getting in trouble again, if he is in institution, as compared to being in the community and paying restitution.

Thank you.

[Prepared statement of Peter Schneider follows:]

PREPARED STATEMENT OF PETER R. SCHNEIDER, PH.D., RESTITUTION EDUCATION, SPECIALIZED TRAINING, AND TECHNICAL ASSISTANCE PROJECT, PACIFIC INSTITUTE FOR RESEARCH AND EVALUATION, BETHESDA, MD

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RESTITUTION: AN OVERVIEW

Definition and Background

Restitution is derived from a Latin word meaning "to set up again" or "to restore" and is simply defined as the compensation of a crime victim by the offender. Unlike taxpayer-supported victim compensation schemes, in which the State provides relief to victims, in restitution the offender is required to bear the reparative responsibility.

Although the term sometimes is used in its limited sense to refer only to monetary payments by the offender to the victim, it also can include payments by the offender into a victim-compensation fund, or services by the offender to the victim or community. In practice, one or more of these "types" of restitution may be combined with other sanctions, usually probation, to tailor an appropriate community response to a particular crime.

An ancient sentencing concept with references in legal systems dating back to the Old Testament and the Code of Hammurabi, restitution is by no means something new. Used sporadically throughout this century in both the criminal, and juvenile justice systems, restitution began to gain more sustained support in the late 1970's as part of the burgeoning Victims Rights movement and the growing dissatisfaction with the futility of traditional sanctions. With its emphasis on holding offenders directly accountable for their actions, it also fit well with the general critique of rehabilitation as the predominant philosophy of the justice system and the growing popularity of the so-called "justice" or "just deserts" model.

Use of Restitution in Juvenile Courts

The launching of the National Restitution Initiative in 1978 by the Office of Juvenile Justice and Delinquency Prevention, coupled with a rigorous evaluation which documented the effectiveness of restitution in compensating victims, reducing recidivism, and providing a realistic alternative to incarceration, greatly enhanced its popularity as a juvenile court disposition. From a handful of formal restitution programs which could be identified in 1977, the number has grown until, today, it is estimated that virtually all juvenile courts use restitution occasionally, and more than half of them apply the sanction frequently and systematically. These programs have received widespread public attention and have been featured in national publications and on network news shows.

The RESTTA project (Restitution Education, Specialized Training and Technical Assistance), for which I am the project director and national coordinator, services the restitution movement by facilitating access to the training and technical assistance needed to help make the use of restitution a viable and effective option for juvenile courts. In the past two years RESTTA has held four regional seminars, organized at least 10 statewide conferences throughout the country, provided trainers and guest speakers to dozens of local seminars, and dispatched consultants to courts in counties from coast-to-coast. Our records indicate that between 800 and 1,000 jurisdictions have benefitted from the RESTTA project.

The popularity of restitution programs in juvenile justice seems due, primarily, to the tremendous flexibility of restitution as a sanction and its broad philosophical appeal. Restitution is supported by those operating from a wide range of political motivations: while it is seen by some as a humane and cost-effective alternative to incarceration, it is viewed by others as a firm, punitive sanction which also addresses many previously unmet needs of victims. It also is consistent with several different philosophical goals -- including accountability, rehabilitation, and punishment -- and helps fill a large niche between probation and incarceration.

RESTITUTION AND INSTITUTIONS: A COMPARISON

Problem: Overcrowding of Institutions

The rate of commitments of juvenile offenders to state agencies which operate institutions has begun to increase recently after several years of decline. The increase is due in part to new legislation in states such as Ohio and California which mandate institutionalization for prescribed lengths of times for certain kinds of offenses; it is affected, too, by the growing tendency of juvenile court judges who -- perhaps responding to the wishes of their constituencies -- are manifesting a "get tough" attitude on crime. Finally, it must be recognized that there are a great many judges who, rightly or wrongly, view the institutions in their states as comparatively positive environments which ultimately are beneficial for their clients.

However well-meaning the intentions, the most noticeable result of increasing the numbers of youth placed in institutions is overcrowding. Recently (only last week) I had the privilege of visiting two California institutions operated by the Department of Youth Authority. The institutions are at opposite ends of the correctional spectrum: The Youth Training School at Chino is a maximum-security facility for the oldest and most-troublesome inmates (or "wards"); the Ventura School in Oxnard is a co-educational institution which resembles a small college campus.

Both institutions have populations far in excess of designed capacity, and "double-bunking" -- placing two wards in rooms intended for one, or four in rooms built for two -- is common. To relieve overcrowding, space designed for recreational or educational use is converted to living quarters, which further cramps the facilities used for programs.

Outstanding programs are sited in both of these institutions, and the Youth Authority generally enjoys a deserved reputation for excellence. However, the superintendents of both institutions expressed concerns about overcrowding and the inevitable diminishment of services it causes. One of the superintendents observed that some institutions were perilously close to "warehousing," a situation in which only minimal services can be provided.

The Role of Restitution in Relieving Overcrowding

Restitution-based dispositions can be used to help reduce overcrowding of juvenile correctional institutions in at least three different ways:

First, dispositions involving restitution can be used in lieu of commitments. Judges have responsibilities towards victims as well as society, and restitution always should be considered in cases involving personal injury or financial loss. If a victim is to receive restitution directly, the offender usually must remain in the community as restitution orders rarely follow a youth to an institution. If a judge desires to maximally restrict the juvenile's activities he can require the youth to perform community service in addition to paying restitution. Heavy community service requirements often are a component of intensive probation programs, in which the intention is to "incapacitate" the offender while allowing him to remain in the community and live at home.

Second, restitution can be used as an instrument to shorten the stay of an offender who has been committed to an institution. In Ventura County (California), offenders sentenced to juvenile hall may be given the option of residing in a work release center for the purpose of repaying their victims. The center allows the offender to work in a normal job outside the facility to earn money to pay restitution, and the work time is counted as "good time" for the purpose of reducing the sentence. Offenders in state-operated institutions may be offered early parole if they agree to perform restitution, or, in a somewhat different approach based on a Georgia program, offenders could be "pre-released" to a Restitution Center for the final six months of their sentences.

Third, offenders can contribute to their own support, and thereby increase the resources available to other inmates, by working at private jobs within the institution. The highly-publicized "Free Venture-Private Industry" programs operated by the Department of Youth Authority in the two California institutions I visited give inmates the opportunity to work at regular jobs within the institution, earning the minimum wage or greater, while learning to cope with a real-world work environment. The money the inmates earn is apportioned among forced personal savings, a canteen account, institutional room and board, and victim restitution. All parties benefit: the industry establishes the workplace as a profit-making or cost-effective venture; the inmates earn money while gaining marketable skills; the institution enjoys defrayed costs and a reduction of expenses; and the victims of crime are more likely to be compensated.

Restitution and Recidivism

The effectiveness of restitution in preventing the recurrence of crime has been demonstrated through multiple-site experimental studies conducted as part of the evaluation of the National Restitution Initiative. Experiments involving the random assignment of adjudicated offenders into restitution and non-restitution groups were conducted in Clayton County, GA, Oklahoma County, OK, Boise, ID, and Washington, DC. In each of these sites the experimental restitution group had a lower rate of recidivism than the control non-restitution group.

It must be said that none of the recidivism rates was encouraging from the standpoint of the juvenile justice system. The recidivism rates for the restitution group were on the order of 50 percent, while the non-restitution groups averaged about 60 percent. However, the groups were comprised of relatively serious offenders, since a criterion for entry into the program was adjudication for an offense (or offenses) which placed the youth in jeopardy of incarceration.

The results of the experiments in Washington, DC and Boise ID are particularly meaningful as each jurisdiction explicitly employed restitution as an alternative to incarceration. In Washington 99 percent of the study subjects were Black and they tended to be older than referrals in other cities. They were second only to the Boise subjects in terms of seriousness: more than 60 percent were repeat offenders with at least one felony adjudication. Of those who were required to perform restitution, 53 percent committed another offense within 30 months; of those who were placed probation without a restitution order, 63 percent recidivated.

The most critical test of restitution as an alternative to incarceration occurred in Boise. There, half of the offenders who were sentenced to served time in a local detention facility or state institution were assigned, on a random basis, into an experimental group in which they were allowed to remain in the community for the purpose of making restitution to their victims. Two years later, 59 percent of the offenders who were incarcerated had committed another offense, as compared with only 53 percent of those in the restitution group. While the difference between the two groups was not statistically significant, the experiment proved that restitution was at least as effective as institutionalization in preventing recidivism among Idaho youth, and perhaps more so.

Finally, the studies demonstrated the cost-effectiveness of restitution as compared with other dispositions and especially as compared with institutionalization. Nationally, it costs approximately the same to supervise a youth in a restitution program as it does to supervise a youth on probation--approximately $160 per month. However, offenders remain on probation an average of six months, while it takes less than that, on the average, to complete restitution. Since offenders often are released from probation after the primary condition has been satisfied, restitution programs tend to cost less, on a case-by-case basis, than probation. The cost per case of restitution obviously is far less than the cost per case of institutionalization, which average between $1,000 and $2,000 per month.

Who belongs in institutions? Criminologists generally agree that most delinquents who are committed to institutions--perhaps as many as 90 percent -- do not need to be there. Certainly, none of those youthful offenders who can be handled just as successfully and just as cheaply in the community as in an institution belongs there. Experts also agree that status offenders -- persons whose offense would not be a crime if committed by an adult -- also do not belong in institutions. Research conducted over the past 10 years destroys the rationale for locking up status offenders: they are no more likely to commit future acts of delinquency, or become career criminals, than other youth.

Institutions for youthful offenders, if they are to be used at all, should be reserved for those persons whose unrestricted movement in society would pose a hazard for public safety. Unfortunately, our ability to distinguish between those who require constant supervision and those who do not is imperfect. Until we improve that ability, we will continue to incarcerate young people unnecessarily, and both our treasury and our national esteem shall suffer.

Chairman **Miller**. Thank you.
April?

STATEMENT OF APRIL KERR, ASSISTANT EXECUTIVE DIRECTOR, COUNCIL FOR RETARDED CITIZENS, JEFFERSON COUNTY, LOUISVILLE, KY

Ms. **Kerr**. My name is April Kerr. I am from Louisville, KY, and I work at the Council for Retarded Citizens. I will be very brief.

In the report that I submitted to you I included information about a profoundly retarded child who was placed for the first 8 years of his life in a foster care situation.

After 8 years, the little boy who had entered foster care weighing 17 pounds, left weighing 17 pounds. That is a easy way of measuring the kinds of abuse and neglect that went on.

I guess what I would like to say, and say it very briefly, is that I believe what the council did for Eugene when he entered our program was nothing unusual or great—it didn't require a lot of programming or any new techniques or therapies. It required a little bit of common sense and the use of what already existed in Louisville, KY. And believe me if it exists in Kentucky, I am sure it exists in lots of other places in this country.

We did things like getting him in public school. We got baby sitters for the mother. We got disposable diapers. We got a doctor instead of a clinic.

We have got in-home supports like physical therapy, occupational therapy, things that are available through Medicaid programs in most all States. I don't think we did anything unusually great, but I will tell you that after 3 years, Eugene is doing a whole lot better.

He is in the hospital right now getting his tonsils out, but he weighs 45 pounds—that is a great change in a very short period of time for him. He is back with his mother, who at the time he was removed was 17 years old and unmarried, but she cared a great deal for him.

The system systematically worked to destroy that relationship. Probably the gutsiest thing we did was to go talk to the mother and to really believe that this mother did care for her child and was willing to learn what it would take to bring him home. And she has done that.

I think the thing that concerns me about our State system in Kentucky, and after what I heard today I think it probably occurs everywhere, is that we professionals often lack basic common sense. I think it is particularly a problem for children who are mentally retarded, those children who are most handicapped, because we allow our community or our professional peers to make us believe that because a child is mentally retarded he or she is somehow different than other children. We buy into that and we buy into to the extent that we allow children to be destroyed and victimized in the system.

I guess if I could leave any message, I think a whole lot of what our problem has to do with is our attitudes and our values; not just my attitudes and values, but society's in general. I don't think as a society we like retarded children or children who are in trouble with the law, the children that we are talking about today.

If that is the case, we are going to look upon them differently than we do our own children. And we are not going to do the things that just make good sense to do with and for children. I think we have to look at that.

I think that we can federally mandate certain things and we have—in fact, in Kentucky right now we probably have some very caring people that are committed to families and committed to community-based services. But that does no good if the whole middle echelon of people that remain on through all the new trends and are there year after year don't really believe that this is what makes the difference in children's lives. I think we all have a responsibility to do that.

Thank you.

Chairman MILLER. Thank you.

[Prepared statement of April Kerr follows:]

PREPARED STATEMENT OF APRIL KERR

I would like to share the story of a 13 year old child who is profoundly disabled and, until three years ago, was involved in the Foster Care Program of the Department for Social Services in the Commonwealth of Kentucky. It is with profound sadness that I relate to you our Commonwealth's failure to care for one of its own. Eugene D. was taken from his mother at the age of nine months and languished for over eight years in a sub-standard foster home. Eugene weighed 17 pounds when he entered the foster home of Mrs. S. in 1974, and he weighed 17 pounds when he was removed from her home eight years later -- after numerous reports of suspected neglect and abuse. The pediatrician who examined Eugene at that time described his condition as: "his extremities were wasted, there was no subcutaneous tissue and no fat. Eugene was indeed, skin and bones..."

How, could such a thing occur. How could our community completely fail to protect this extremely vulnerable child. Why had none of the allegations of neglect and abuse resulted in action earlier. Who was responsible. All of these questions and many more rushed through my mind as I read the newspaper accounts.

Eugene D. was born 08/30/73, the only child of a 17 year old unmarried, black woman who was living with her mother. Eugene was committed to the Commonwealth of Kentucky 04/18/74 through a dependency petition. Although there were reports of neglect and possible abuse by the mother, these allegations were never substantiated and the mother has consistently denied them.

At the age of nine months Eugene was placed in the foster home of a 55 year old woman who was in poor health, who had had no prior experience with special needs children, and who depended on foster care payments as a livelihood. Initial reports indicated that the woman was unable to deal with difficult or problem children. Despite this knowledge state workers placed two other severely disabled children in her home for seven of the eight years that Eugene was there . During this period Eugene was hospitalized on two occassions in a comatose and dehydrated condition. In September 1976, Eugene was treated for a broken leg which the foster mother claims was the result of an accident. The attending physician reported that the break, which was at least ten days old, had not been accidentally caused. Eugene was not entered in public school until eighteen months after his eligibility to do so. He went without a specialized wheelchair until he was over six years old. Eugene received no in-home supports or therapies. All of this was in addition to the fact that Eugene was not receiving adequate nourishment and that the foster mother was not following specific instructions regarding his care and feeding.

It is revealing to note that in November 1980, after two hospitalizatons for dehydration and numerous complaints of neglect, the state worker asked the 66 year old, seriously ill foster mother if she would adopt seven year old Eugene and the two other children living with her. The foster mother did not adopt the children, and the state designated the children as in need of permanent foster care. This status means even less monitoring and supervision. Finally in September 1982 state officials closed the foster home. Even so it took another three months to transfer Eugene to another setting.

A year after Eugene's removal from this home, the Council for Retarded Citizens became involved. The thrust of our efforts was to assist and support Eugene's mother (Marie) in regaining custody and bringing Eugene home. Between December 1982 and December 1983 Marie had visited Eugene in his specialized foster placement and had learned all the necessary skills to care for him (i.e., use of adaptive equipment, feeding techniques).

We approached the court and asked that custody be returned to Marie and that a temporary guardian (other then the state) be appointed for Eugene. In addition an in-home support program was implmented. The in-home plan was relatively simple:

(1) obtain private medical services -- a pediatrician who accepted a medical card as opposed to a clinic

(2) initiate in-home respite (babysitting) services

(3) enroll Eugene in an appropriate special education program within the public school system

(4) provide an in-home support worker to visit two or three times/month to monitor Eugene and provide necessary information and instructions to his mother

(5) arrange for physical therapy and occupational therapy services in the home

(6) provide additional needed adaptive equipment

(7) co-ordinate other medical services with pediatrician

(8) obtain disposable diapers

(9) encourage mother to attend parent support activities

(10) facilitate the smooth transfer of SSI payment and medical card benefits to his mother.

After a few months, Eugene's mother became his legal guardian. He has received the necessary services in the community to meet his needs and the strong and loving bond between Eugene and his mother is obvious to all who meet them. As of a few days ago, Eugene weighed 45 pounds. I can't tell you of a miracle --Eugene is still profoundly mentally retarded and has many physical difficulties that will remain throughout his life, but the joy and love on his face today make it difficult to recognize that this is the same child as the one in the attached newspaper photograph.

We will never fully know the loss --- what could have been for this little boy who according to a state worker in 1974, "crawls, and is able to sit up for short periods of time." Today, Eugene can do neither. It would appear that Eugene was not only neglect by our state system, but that he was irreparably harmed. The Commonwealth of Kentucky and those individual persons, who failed to use common sense and good judgment and who ignored basic human concern for a child, must be held responsible for Eugene's ordeal. Sadly, Eugene is not alone, there have been and there are children suffering the same kinds of atrocities within our foster care system today.

We must understand that the diagnosis of mental retardation, or cerebral palsy, or any other handicap does not diminish "humanness". All children need love, protection, and care -- mental retardation does not change that fact. We must recognize that parents of mentally retarded children love their children just as you and I love our children -- retardation doesn't change that. Just because a social worker in Louisville, Kentucky can't understand Marie's love for Eugene or just because she/he couldn't care for a "child like that" doesn't mean we allow a parent-child relationship to be destroyed and a child to be neglected and abused for nine of his thirteen years.

There is no question that the system is bad, but the "system" is just people like you and me, and we must realize that our attitudes and values about children allow such horrible things to happen. How we as a nation care for our most vulnerable members is truly a reflection of our character.

April Kerr
September 25, 1986

Attachment

Eugene D. was 9 years old and weighed only 17 pounds in December 1982 when he was removed from one foster home.

The Courier-Journal (October 18, 1984)

Louisville, Kentucky

STATEMENT OF LENORE BEHAR CHIEF OF CHILD MENTAL HEALTH SERVICES, NORTH CAROLINA DIVISION OF MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE SERVICES, RALEIGH, NC

Ms. **Behar**. I am Dr. Lenore Behar, I am chief of Child Mental Health Services for the State of North Carolina. I notice from the array of people who were here today that I am the only representative of a public agency.

I am not going to apologize for my position despite all that you have heard today. (About public agencies)

I can't refute what you have heard; I know that it is true. But I will tell you that I have worked for the State of North Carolina for 14 years, and continue in the position as chief of Child Mental Health Services because I believe that the public system needs internal advocates.

I have come to believe, after our experience in North Carolina, particularly, that we can make changes from inside the system with help from the outside, perhaps, but we have got to have strong people in both directions.

You have heard a lot today about the problems and the horrors that our children experience in the name of help. The situations are very dramatic; they are compelling; and they demand action.

I want to talk to you about solutions, and the solutions are less dramatic, and they are probably a whole lot less interesting. It is easy to be interested in problems because they raise our attention. It is less easy to be interested in solutions because they take a lot of hard work, and in some cases take a lot of money as well.

I think what you have heard this morning, particularly, is that a lot of the systems are very underfunded. Sometimes we need to reshuffle money, sometimes we need to find new money.

I think I have a bright spot for you, a glimmer of hope, about the public systems. You have heard some comments from Mark Soler already today about things that have happened in North Carolina as the result of litigation, that he referred to it as the Willie M. lawsuit. I am going to tell you a little bit about that, because much of what happened in that law suit has now, in a sense, become the word in North Carolina about how one is supposed to treat children. And from some of the training and work I have done across the country I believe that other people are beginning to believe that what we are calling, for want of a better term, "individualized treatment approaches," do make a difference.

I will say what I have heard Mark Soler say about the Willie M. lawsuit, and although he has left, he did not mention that he is from the law firm that represented the plaintiffs. But I know he is in agreement with me—he has said publicly that this is the most spectacular law suit on behalf of children in the country, from the beginning of time, in terms of the outcome.

I think he would agree that it is spectacular, not because the case was so good. You heard lots of cases today that would have made wonderful law suits. It was not that the lawyers were so good, they were all very competent, for the most part. But there are lots of competent lawyers around the country. And it is not that the judge was that outstanding, although, he clearly is.

I like to feel that the State of North Carolina deserves a lot of credit for what happened, because we, some of us convinced the State that the suit was worth settling within 1 year, that it was worth funding a remedy. We convinced the legislature to fund the settlement plan at $26 million a year, for 1,200 children, which averages out to about $22,000 a year.

As I talk a little bit you will realize that these are really end-of-the-road kids. The kids that have the most problems and are the most difficult to treat.

We worked very hard over 6 years to bring about major systems change in all of the systems that serve children, and we did it for 1,200 children. The State of North Carolina serves almost 30,000 children in the public mental health system alone, so this is a very small part that we focused almost all of our attention on for 6 years.

Let me describe what happened, what we have done, and hope that it will have some meaning in terms of what you have heard today.

In 1979 a suit was filed on behalf of four children, three of whom were in juvenile justice training schools, one of whom was in a State psychiatric hospital. The complaint was that these children were deprived of their right to education and treatment, under a variety of State and Federal laws.

As I indicated earlier, after 1 year of discovery, the State agreed to settle, even though the State of North Carolina at that time was considered to have high quality mental health services and to have then, and still now, the most protective law about admitting children to psychiatric hospitals, public and private, that exists in the country. It was very clear that despite all of the protections and all of the efforts that we had gone to, there were many, many children whose needs were not being met. The complaint was heard—the case was heard before Judge James McMillan in the Western District Court, Federal Court, in North Carolina.

As I said, after 1 year we agreed to settle and developed what every professional's dream would be in terms of a settlement plan. The basic thrust was that the children would be served in the least restrictive environment, meaning community-based services and that individualized habilitation plans would be developed for every child in the class, based on the client's needs, constantly assessed, not on the services that were already available.

I think this is the key point in terms of what we are talking about today.

The State of North Carolina took this very seriously. We wanted to make it work; we thought it was a challenge. We considered it to be an opportunity to show that the public system could serve children and could serve them well.

The class of children that we are talking about are children who are seriously emotionally, neurologically, or mentally handicapped minors. The one thing that they had in common is that they were all assaultive, which is my point about their being the most difficult to serve. They are not the sickest, perhaps, but they are the most difficult to treat.

These are children who were receiving inappropriate services, and who then, or in the future were at risk of being institutionalized or put into State care. The Division of Mental Health, Mental Retardation, and Substance Abuse Services was designated as the lead agency to implement the settlement plan.

As I indicated, the settlement plan involved funding at the average of $22,000 per class member. I should point out to you that in North Carolina it cost $35,000 a year to be in a State juvenile justice training school and over $60,000 a year in a State psychiatric hospital for children services. So by those standards these potentially institutionalized minors would cost the State less money in the community based programs.

In developing services it became very clear that these children were the legal responsibilities of many agencies all at the same time: many of them were in the welfare system, many of them were in the juvenile justice system, and all of them should have been in the educational system.

The failure to provide previous services stem from an absence of appropriately designed and adequately funded programs to meet individualized needs. There was a lack of coordination between agencies. Probably the most difficult thing to change was the attitude of the professionals about whether children could be helped or not, and whether or not they could be treated in community settings.

I am going to briefly tell you that there were six assumptions on which the whole system of care was developed. One was that a complete system of services must be in place in order to serve children. These are children with very complex needs. There is no one single program component, no matter how good, that can serve the needs of all children.

Any program standing alone will fail for the whole range of children. There had to be a unified approach among all of the agencies that were involved.

There had to be flexibility in funding at the local level so that local program people, case managers, could make decisions about children without having to write to the State for permission.

There had to be a very strong management structure. Perhaps, the two most important—one is that there had to be what we call, a no eject/no reject philosophy. In other words, once the child was identified, the system had to serve the child.

I am going to say a little bit in a few minutes, if I may, about out-of-State treatment. Our approach was that the child had to be served and had to be served within the State of North Carolina.

The last point on which this system was based is that individualized treatment and education planning, with case management as the backbone, is very essential to the success of the service system.

If the focus is maintained on the service needs of each client, the administrative label that we place on children, such as juvenile delinquent, welfare client, mental health client, or special education student, can be ignored, allowing each child broader access to services.

We hoped to stop putting square, round, and triangular pegs in square holes. There is no one program that can meet the needs of all of these children was our constant motto.

After careful assessment of each of these 1,200 children we recognized that they were a very varied lot. They ranged in age from 8 to 18, they were 80 percent male, 50 percent minority, 35 percent in the custody of the State and child welfare, 51 percent convicted of at least one crime, 60 percent still in public school, and of those 56 percent in special education; and, all with identified mental health needs.

Clearly, these children were every system's clients, and very clearly they were nobody's clients as well. The key to planning that we used was the individualized combination of services to be in a sense, wrapped around the child, understanding that, perhaps, every different child would need a different constellation of services from time to time. And case management was the glue to hold it all together. I want to list for you the functions of the case manager so that you can get the picture of how the individualized plans were done.

The case manager had to assemble a community team of representatives of all agencies who had been or would be providing services. The family and the child, if possible, were at those meetings. So the family was an important part of the planning element.

The case manager and the team had to determine which services of which agencies could meet the client's needs and what additional services had to be constructed, what the responsibility of each agency would be, with time lines. The case manager was to reassemble that team every 90 days to review progress and revise the plan.

The case manager worked directly with the client and his or her family to assure that there were no barriers to receiving services and that services were delivered in a timely fashion. The case manager monitored all time lines and quality of services and did daily tracking of where the child was in the service system.

Now, if a case manager is going to do all of that, it is very hard to do if the child is six States away. It has nothing to do with the quality of programs in other States.

It has only to do with the essential element of being in constant touch with what is going on and monitoring what is happening and making sure that the child and family have face-to-face contact.

Each case manager is responsible for 12 to 15 clients. Now, what you have to realize is we are talking about small case loads and large budgets. And we are talking about very, very difficult children. For other children the case loads could be bigger and the budget smaller.

Now, I want to end the discussion by telling you what we have found after 5 years in terms of outcome for children. The number of class members in training schools, juvenile justice institutions, has decreased from an original count of 250 to 30. That means that not only have clients been removed from training schools; it means that none have gone in to replace them.

The number of class members in State hospitals has decreased from 65 to 10 at any given time. More class members are being served at home using a combination of in-home crisis services and other community services.

Clients have moved from more intensive to less intensive services, and clients have progressed from more expensive to less expensive constellation of services as well.

Within the past 3 years, the Federal agency responsible for mental health services, the National Institute of Mental Health——

Chairman MILLER. If I can just interrupt you. We have to conduct a little piece of committee business here before Mr. Coats leaves. We have to file a report here, if you will excuse.

What we are going to be doing here is you have got to move to file this report, to approve the report.

Mr. COATS. Mr. Chairman, I guess I ask unanimous consent to file, or at least move to file the report titled "Child Poverty Report."

Is that the formal title?

Chairman MILLER. The formal title is "Safety Net Programs: Are They Recycling Poor Children?" We have two amendments to the report that have been cleared with the minority staff. One amends the Introduction and one involves a table with current and past expenditures for the programs under study. If there is no objection——

Mr. COATS. No objection.

Chairman MILLER. I would like to include those in the report. Without any objection the report will be considered as adopted by the committee, and will be printed by the committee, with the understanding that all of the members of the committee shall have 3 days to file their views. We will call all of the members to make sure that they are aware of that time provision.

I ask unanimous consent that the staff shall have the authority to make technical and conforming amendments to the document.

Mr. COATS. No objection from our side.

As you know, Mr. Chairman, we on the minority side want to file dissenting views, and we will do that within the customary 3 days.

Chairman MILLER. Thank you very much. I appreciate that.

Thank you. I am sorry. It is the end of the session and we are trying to do everything at once here.

Ms. BEHAR. I see.

I will say that a lawsuit is a very tough way to make systems change. I am not sure we could have done it without it, without a lawsuit.

But there are efforts now across the country to begin systems change on behalf of children through a very small amount of funding to the National Institute of Mental Health, which offers small grants to States to develop comprehensive and integrated systems approach to services for children with serious mental health and other types of problems. This initiative is known as the Child and Adolescent System of Services Program, referred to as CASSP, with a budget, would you believe, of $4.6 million in the Federal budget.

It is the only funding currently at the Federal level that I know of specifically to build systems or change systems on behalf of children. There are 24 States that have such grants and as a consultant to many of those States it seems apparent to me that there is considerably more focus on systems change and interagency planning and a uniform approach to children than there ever has been before. I only hope we can turn it into services for children.

Jim Lardie, the director of the National Association of Child Advocates, upon the receipt of this book at a public conference, said that there is now a clearer direction, a clearer blueprint for service delivery, one that is more widely accepted by professionals, in mental health than there is in any other child-serving system today. I think it is a wonderful comment.

As I said, I hope the planning and the coordination that we will talk about can be translated into services. Clearly, the funding for that translation comes from the States. And the burden is on the States to see whether or not they can do it.

The Willie M. program is the only living demonstration of a systems approach today. I am delighted to be able to tell you that the Surgeon General of the Army has just endorsed a similar program to be carried out at Fort Bragg, for children with mental health problems there, pending identification of funds. So we will have yet a second demonstration of what might work on behalf of these children.

I am pleased that our efforts in North Carolina have resulted in something so positive. I hope we can set a direction for other states as well.

Thank you.

Chairman MILLER. Thank you.

[Prepared statement of Lenor Behar follows:]

PREPARED STATEMENT OF LENORE BEHAR, PH.D., CHIEF, CHILD MENTAL HEALTH SERVICES, DIVISION OF MENTAL HEALTH, MENTAL RETARDATION & SUBSTANCE ABUSE SERVICES, DEPARTMENT OF HUMAN RESOURCES, STATE OF NORTH CAROLINA

In the 1970's, when I first took my present position, North Carolina, like some other states, began the development of publicly funded community-based mental health services for children and adolescents. The initial impetus for the development of services to this age group was 1) the report of the Joint Commission on Mental Health of Children in 1969; and 2) Part F of the Community Mental Health Centers Act which earmarked funds for special services to this population. By the late 1970's in North Carolina a small amount of state money was designated for public mental health services to children and adolescents. In North Carolina, a well established community mental health system had assumed responsibility for its child and adolescent population serving approximately 25,000 per year.

Compared to many other states, North Carolina was doing quite well. High quality state hospital services, group homes, therapeutic camps, and outpatient services existed; however, not in sufficient quantity. Thus, many children were being diagnosed, treatment recommendations made and no services provided. This was especially true of the seriously disturbed assaultive population who were considered poor treatment risks. Further, as was true in other states, many seriously disturbed children and adolescents were sent to juvenile justice institutions by judges who believed they were using the only means available to protect the juveniles, protect the communities, and/or provide some treatment or rehabilitation. From 1977 on, my office documented year by year on a name by name basis the inappropriately served children and adolescents, particularly those needing intensive services. In Charlotte and Raleigh, two judges became frustrated by the lack of mental health services for the very difficult to serve population and made dramatic efforts to bring these troubled youth to the attention of the press and to the attention of a group of attorneys.

In October, 1979, a complaint was filed in the United States Western District Court before Judge James McMillan on behalf of four minors, three of whom were in juvenile justice institutions and one of whom was on an adult ward in a state hospital, stating that they had been deprived of their liberty and not provided with appropriate treatment and education rightfully theirs under a variety of federal and state laws. Despite the recognition that many children in North Carolina were receiving high quality mental health services and despite the recognition that North Carolina had and still has the most protective law regarding hospital admissions of minors, it was also clear that the complaints filed could be well substantiated. So one year later, in an unprecedented way, the state moved to settle, designing a settlement plan that emphasized services with the following focus:

- least restrictive environment, meaning primarily community-based services;
- individualized habilitation plans, based on the client's needs, not services already available.

The class was defined as seriously emotionally, neurologically or mentally handicapped minors 1) who were assaultive; 2) who were receiving inappropriate services and; 3) who then or in the future were at risk of being institutionalized and thus put into state care. The Division of Mental Health, Mental Retardation and Substance Abuse Services was designated as the lead agency to implement the settlement plan. North Carolina has looked upon the settlement of this suit. (referred to as the Willie M. suit) as an opportunity to develop a continuum of mental health services for children and adolescents and to integrate these services with those of other child-serving agencies.

The North Carolina legislature appropriated funds to implement the settlement plan, now totalling $26 million per year for approximately 1,200 clients.

In developing services for these seriously disturbed, assaultive children and adolescents, it was recognized that many had been and would continue to be the responsibility of other public child-serving agencies; the failure of previous services stemmed from 1) an absence of appropriately designed and adequately funded treatment and education programs to meet their individualized needs; 2) the lack of planned, coordinated movement across and through the various agencies, or service systems; and 3) attitudinal problems on the part of professionals regarding the "treatability" of this population. A basic set of assumptions was developed which specified the characteristics of a responsive system of services, as follows:

1) A complete system of services ranging from highly restrictive settings to settings that approximate normal family living is needed to rehabilitate these youngsters. To deal effectively with these clients, the full continuum of care must be in place; discreet components whether of the more intensive or the less intensive variety, standing alone, will fail.

2) The system must provide for linkages among the various components within the system, as well as to services from other child-caring systems. There must be coordinated efforts between the human service providers (public and private), educational systems and courts.

3) There must be flexibility in funding and in decision-making to allow the movement of children through the system as their needs change, requiring less restrictive or more restrictive settings. There must be backup services and respite services available on a twenty-four hour basis.

4) There must be a state and local management structure to the system so that shifts in funds and staff are possible, structured to allow for the movement of children discussed above; there can be no admissions delayed to program components.

5) A no eject/no reject policy is essential to assuring that the system take responsibility for its clients.

6) Individualized treatment and educational planning, with broadly defined case management as the backbone is essential to the success of the service system. If a focus is maintained on the service needs of each client, the "administrative" labels such as juvenile delinquent, welfare client, mental health client, or special education student can be ignored, allowing each child broader access to services; such needs-based planning should lead to utilization of appropriate services.

After a careful assessment of each class member, it was clear that this population had varied rehabilitation needs. It was a heterogeneous population - ranging in age from 8 to 18, 80% male, 50% minority, 35% in custody of the public child welfare system, 51% convicted of at least one crime, 60% still in public school and of these 56% in special education - all with identified mental health needs. Certainly, these children were every system's clients; clearly they were nobody's clients, as well.

In the design of the service system, 42 possible program components have been identified to be provided by all the child-serving agencies and paid for with state dollars or entitlements. The key to planning for each client is to identify the individualized combination of services to be "wrapped around" the client; case management is the glue in the provision of services to hold the services together for the client and his/her family. The role of the case manager is as follows:

- to assemble the community team including representatives of all agencies who are or will be providing services;
- to determine which services of which agencies can meet the client's needs and determine what additional services must be constructed;
- to delineate clearly the responsibilities of each team member, with timelines;
- to reassemble the community team every 90 days to review the progress and revise the plan, as needed;
- to work directly with the client and his/her family to assure that there are no barriers to receiving services, and that services are delivered in a timely fashion.

Each case manager is responsible for 12-15 clients.

When considering both the caseload and the budget of the Willie M. programs, it is essential to realize that this population is among the most difficult to treat; within a broader range of seriously troubled children and adolescents, the caseloads could be larger and the cost, per client, could be smaller.

After five years of service delivery, there are several indices that such an approach has been successful.

- the number of class members in training school has decreased from an original count of approximately 250 to

30 currently, meaning not only have these clients been removed to community programs but they have not been replaced with substantial numbers.

- the number of class members in state hospitals has decreased from 65 to 6-8, at any time.
- more class members are being served at home using a combination of community services; clients have moved from more intensive to less intensive services.
- clients have progressed from more expensive to less expensive constellations of services.

Jane Knitzer in Unclaimed Children (1982) brought into focus the failure of states to respond to the needs of children with mental health problems by failure to develop comprehensive plans for services or to provide opportunity for individualized treatment planning for these children. She cited North Carolina's response to the Willie M. lawsuit as a positive example for other states.

Within the past three years, the federal agency responsible for mental health services, the National Institute of Mental Health, has offered small grants to states to develop a comprehensive and integrated planning process for services to children with mental health needs. This initiative is known as Child and Adolescent System of Services (CASSP).

Now twenty-four states have such grants and, as a consultant to many of those states, it seems apparent to me that there is considerably more focus on this population of children, more interagency planning, and a more uniform approach to planning for individualized treatment services. Jim Lardie, director of the Nat'l. Association of Child Advocates, recently said in the child mental health system there is a clearer direction, a clearer blueprint for service delivery, that is more widely accepted by professionals, than in any of the other child-serving fields. His comments were offered in reaction to the publication of "A System of Care for Severely Emotionally Disturbed Children and Youth" developed by the technical assistance projects for the CASSP initiative.

The votes are not in yet, however, on how effectively such planning can be translated into real services to real children. The only service demonstration of a sizeable population is the Willie M. program. However, I am delighted that just this week the Surgeon General of the Army has approved funding for a similar demonstration project for all children with mental health problems at Ft. Bragg, North Carolina.

I am pleased that our efforts in North Carolina have been so instrumental in setting a direction. Our experience has served as the foundation for much of the planning for children's mental health services and I am hopeful that the individualized case planning and system development that has worked for Willie M. clients can be implemented for many other troubled children, both in North Carolina and across the country.

["Changing Patterns of State Responsibility: A Case Study of North Carolina," article from Journal of Clinical Child Psychology, 1985, vol. 14, No. 3, and "The North Carolina Experience," article from Children Today, dated May–June 1986, are retained in committee files.]

STATEMENT OF JEFFREY ROSENBERG, DIRECTOR OF PUBLIC POLICY, NATIONAL COMMITTEE FOR ADOPTION, WASHINGTON, DC

Mr. Rosenberg. Do I assume correctly, I only have a couple minutes?

Chairman Miller. Sure.

Mr. Rosenberg. My name is Jeff Rosenberg. I am a social worker and the director of public policy for the National Committee for Adoption.

From the first panel we really heard some specific individual horror stories.

I am going to summarize my written testimony. I really think I am speaking of two horror stories, I guess I would call of a systemic nature.

One revolves around data, and the children that we are speaking about. We really don't know beans about these children.

We don't have accurate counts of how many children are in foster care. We don't have accurate counts of how many special needs children are adopted.

Clearly, what we need is accurate data. And in order to make any kind of accurate kind of policy decisions on these children—we have heard a lot today about the need for accountability—we just can't get it without accurate data.

The data that we do have come from a voluntary system, it is the Voluntary Cooperative Information System which is operated by the American Public Welfare Association under contract to the Health and Human Services.

The big problem with this is that it is voluntary. Most of the data that we have on these children, even in the APWA report says, "must be considered as rough national estimates." I think the more than 260,000 in foster care, and the at least 36,000 of these that are waiting to be adopted in this country, are much too important to rely on rough national estimates based on data that the States choose to submit.

I think besides our commitment to these children, we also have a fiscal responsibility, a fiscal need for this data. If you look at the number of AFDC foster care children maintained under Title 4E of the Social Security Act, since 1980 through 1984, the monthly numbers have hovered around 100,000 children.

When you look at the Federal expenditures under this program, it has more than doubled, from $217 million in 1980, to $454 million in 1984. Without accurate and reliable data there is no way we can tell if that rise in expenditures is because we have an inefficient, ineffective program, or if indeed it is necessary.

There has been a lot of interest, I think, in Congress to resolve this problem of data. The Senate Finance Committee recently approved what would be a mandatory annual data reporting system for adoption and foster care which would go into implementation in 1991. Over here in the House Congressman Joe Skeen has introduced similar legislation and I would like to note that members of this committee have been cosponsors.

Just the first point is that we need accurate data. We need complete annual data to do anything for these children.

The second concern I wanted to hit upon is the really inefficient use that the public sector makes of the private nonprofit sector in meeting the needs of these children. We see in many areas fiscal shortsightedness, issues of turf, really working against moving children into permanency.

The private nonprofit child placement agencies are a resource that many States are not using, really to the detriment of the children.

I will just read you one example, because I know we are pressed for time, that makes my point. Up until a few years ago the Department of Health and Human Services of Louisiana used private agencies as a resource for finding adoptive homes for children in foster care. The private agencies would recruit adoptive parents, supervise the placement, and provide all requisite services at no charge to the State. No charge—free is as about as economically efficient as one can get. But the State decided, however, that all efforts to place these children in adoptive homes would become the territory of State employed personnel.

The private agencies were no longer to be used as a regular resource. It is now reported, and the data bears this out, that the number of special needs adoptions in the State of Louisiana that have disrupted has risen alarmingly since the move away from the use of the private agencies and into the sole territory of the State.

With this in mind, and also cognizant of the fact that Louisiana is facing a $200 million to $250 million deficit, the executive of one small private agency wrote the head of the State public welfare department this past winter offering to place, along with three large private agencies, Louisiana waiting children for free—I emphasize for free—all they asked was to be given permission to find homes for these children and to be given access to the information that they would need.

This agency executive has received no response from the State, despite his prodding. The bottom line of this is that the 15 children a year that used to be placed in permanent homes through the efforts of this one small Louisiana agency, at no cost to the State, now do not or if they do, it is at a great cost to an economically strapped State.

I have other examples, and I also have some possible solutions, or some policy questions that need to be addressed; they are in my written testimony. I know you are very short of time. If you would like——

[Prepared statement of Jeffrey Rosenberg follows:]

PREPARED STATEMENT OF JEFFREY ROSENBERG, SOCIAL WORKER AND THE DIRECTOR OF PUBLIC POLICY OF THE NATIONAL COMMITTEE FOR ADOPTION

My name is Jeffrey Rosenberg. I am a social worker and the Director of Public Policy of the National Committee For Adoption. On behalf of the Board of Directors and membership of the National Committee For Adoption, I would like to thank members of the Select Committee for the opportunity to testify today.

The National Committee For Adoption is the headquarters organization of a non-profit, voluntary movement to strengthen adoption and related services. NCFA was formed in 1980. Today we have 135 voluntary sector adoption or maternity services agencies in membership, making NCFA the largest national umbrella organization of voluntary sector adoption agencies in North America. Many of these agencies provide foster care services and nearly all work to find homes for children with special needs. NCFA is also a sponsor of the Council on Accreditation of Services for Families and Children, the major accrediting body for adoption and foster care services.

I wish to address two very important issues relating to the subject at hand, children in state care: our lack of adequate knowledge about these children and the programs designed to serve their needs; and the public sector's, inability, to a large degree, to make effective and economical use of the private, non-profit sector in this area.

This Select Committee and Congress as a whole have made their commitment to these vulnerable children clear. Passage of the Adopton Assistance and Child Welfare Reform Act of 1980 was a monumental step forward, but, unfortunately, we do not know what the affect of this program has been on children. The 1985 report by the CBO. "Children in Poverty", states that "It appears that the net effect of the 1980 provisions on the foster care system is currently unknown."

There is no adequate data regarding foster care and adoption on which to base policy decisions. The data we do have is provided by the Voluntary Cooperative Information System, operated by the American Public Welfare Association under contract to HHS. The problem, we fear, is the word "Voluntary": most of the data provided must be considered, in the words of the APWA report, as "rough national estimates." We believe that the children in foster care, at least 269,000, and the children waiting to be adopted, at least 36,000 of these, are too important to rely on "rough national estimates" based on data that the states, not reflecting on any motives of any state or public official, choose to submit. We do not know, for example, what types of people adopt the children in foster care so that programs can target their recruitment efforts. If we are truly committed to these children, we need accurate data to provide us with a clear picture of where these children are and what is happening to them.

Accountability is also necessary from a fiscal perspective. While the number of AFDC-foster care children maintained under Title IV-E of the Social Security Act hovered at an average monthly count of about 100,000 during the five years of 1980 to 1984, the federal expenditures for these children rose from $217 million in 1980 to $454 million in 1984. Without accurate and reliable data we can not evaluate whether these rises in expenditures are necessary and effective to reach the desired goal of permanence for children, or whether they are the results of an inefficient system that needs tinkering with or major revamping.

Members of Congress have recognized the need for reliable data. The Senate Finance Committee has recently approved a plan to implement an annual mandatory adoption and foster care data reporting system. This proposal, which was developed by Senator Lloyd Bentsen would require the system to be implemented by 1991. Similar legislation was introduced in the House by Congressman Joe Skeen. I should add that several members of this Committee are co-sponsors of Mr. Skeen's legislation. And the House Appropriations Committee has gone on record stating its concern about the inadequate data we now have and its support for a mandatory system. We think that the conclusion is clear: we can not drop millions of dollars into this "black hole" we call the foster care system and we can not leave hundreds of thousands of children incompletely accounted for. It is time for Congress to enact a mandatory data system.

The second concern we wish to raise before the Committee is one that is clearly hurting children. That is the inefficient use of the private non-profit sector in meeting the needs of foster children. In many areas fiscal short-sightedness and issues of "turf" work against moving children into permanency. The private, non-profit child placement agencies are a resource that many states are under using, to the detriment of children. Some examples will help make our point.

Up until a few years ago, the Department of Health and Human Resources of Louisiana used private agencies as a resource for finding adoptive homes for children in foster care. The private agencies would recruit adoptive parents, supervise the placement, and provide all requisite services at no charge to the state. Free is as about as economically efficient as one can get. The state decided, however, that all efforts to place these children in adoptive homes would become the territory of state employed personnel. The private agencies were no longer to be used as a regular resource. It is reported, and data bears this out, that the number of special needs adoptions in the state that disrupted, subsequently rose alarmingly. With this in mind, and also cognizant of the fact that Louisiana is facing a 200-250 million dollar deficit, the executive of one small private agency wrote the head of the state public welfare department this past winter offering to place, along with 3 large private agencies, Louisiana waiting children for free. All they asked was to be given permission to find homes for these children and to be given access to the information that they would need. This agency executive has received no response from the state despite his prodding. The bottom line is that the 15 children a year that used to find permanent homes through the efforts of this one small agency at no cost to the state, now do not, or if they do it is at a great cost to an economically strapped state.

A second example comes from New York City. New York City is currently facing a crisis in foster care. The New York Times has reported of foster children sleeping in social workers' offices. Spence-Chapin Services, a nationally known private, non-profit child welfare agency, had been providing foster care to New York City children under contract with the city since 1960. Spence-Chapin operated a model program. Research showed that the program was one of the best in the city in terms of reuniting foster children with biological families or moving the children towards adoption. However, because the City would reimburse Spence-Chapin at only about a 60% rate, and because the City would not adequately fund the intense and comprehensive services that the agency believed was necessary to help the children, Spence-Chapin was forced to underwrite the city contract with $500,000 per year of the agency's own funds. Last year, for reasons of fiscal viability, Spence-Chapin Services was forced to end its contract with the city, thus putting 225 children back into a City foster care system that has had children sleeping in social workers' offices. Certainly, a more fiscally efficient attitude would have moved the City to adequately fund the foster care program provided by Spence-Chapin, rather than pay later for children who grew up without adequate services and who may have spent time sleeping on a social worker's desk.

I've presented to the Committee two examples, we do have others. Some policy issues and some possible solutions that should be looked at are:

1) Governmental funding of the efforts of private, non-profit agencies for finding homes for children in public care should be instituted. This should be done without the requirement of a contract. Private, non-profit agencies should have access to the necessary information about the child, and then be paid for the cost of service when they place that child into an adoptive home.

2) States should be encouraged to develop collaborative relationships with private, non-profit agencies. Missouri, for example, will contract with private agencies to provide all services involved in placing a special needs child into an adoptive home.

2) A re-evaluation of the fiscal disincentives for moving children out of foster care that exist in some locales. For example, in New York City it is possible for an agency to negotiate a 90% reimbursement rate for providing foster care for a City child. However, when this agency moves this child into a finalized adoptive home, the agency will receive only a lump sum payment of $2000. The overhead for the agency involved in supervising the foster placement and supervising the adoption of course, remain essentially the same.

Chairman **Miller**. Why wouldn't the State take advantage of that?

Mr. **Rosenberg**. Well, I will tell you what the executive of the private agency feels. He looks at the 4,500 children in foster care, approximately, in Louisiana, and he looks at the type of children and feels that probably 1,000 to 2,000 of these children should be free for adoption. And his conclusion, and it is a hard one to dispute, is that because the State has built what he calls, this new empire around foster care and finding homes for these children, that they are not going to let go of this.

Chairman **Miller**. You think it is just a maintenance operation?

Mr. **Rosenberg**. Yes.

Chairman **Miller**. Is that true in other States?

Mr. **Rosenberg**. We believe that it exists in other States, yes.

Ms. **Kerr**. I would say that in Kentucky it is not so much, maintenance of the system, but it goes back to what the first panel said in terms of confidentiality.

The whole situation of not allowing the private sector to look at what they are doing with children.

The little boy that I described in my paper is not at all unlike another other child for whom we approached the State about finding an adoptive home. Basically, the State wouldn't let us get near the situation because the second child in the home is in the same bad situation Eugene was in 3 years ago.

Mr. **Rosenberg**. I think we also need to examine in a lot of areas the fiscal disincentive that still seems to exist to moving children out of foster care and into permanent homes.

One example, New York City, it is possible for an agency to get as high as a 90 percent reimbursement rate to care for a foster child. However, when that agency finds an adoptive home for that child, the 90 percent, of course, automatically ends, and that agency will receive only a $2,000 lump sum payment at the time of finalization, despite the fact that, of course, the overhead for that agency is the same when that agency was supervising the foster care placement as when that agency was supervising the adoptive placement.

Chairman **Miller**. What about States that contract with private agencies? Aren't there a number of States that do that?

Mr. **Rosenberg**. There are not a number of States that contract with private agencies for their entire services. Almost all States that use purchase-of-service, only use them for small pieces, maybe a home study, maybe some adoptive recruitment.

When I was working on one project and was doing research in this area I found only one State that made full use of the private agencies for the full placement services, and that was Missouri. Missouri will contract with private agencies for them to do the placement.

Chairman **Miller**. Lenore, would the changes in North Carolina have happended without a law suit?

Ms. **Behar**. Probably not.

Chairman **Miller**. The contention of the law suit was that you were violating the law with the existing system?

Ms. **Behar**. Right, that children were being deprived of their rights to treatment and education. I was thinking as they were answering the question, and the same answer applies, there is incredible resistance to change, whether change looks good or not.

There is not a trust of new ways and something is always very suspicious about people who want to do something a little bit differently. So I think change comes about, both in public and private systems very slowly.

I don't think there would have been any State in the country that would have put that kind of resources into kids programs in 1979, and maybe not even today.

Chairman MILLER. Well, sue all the other States.

Ms. BEHAR. Well, I am not sure you would win in all the other States. That is the other part of the problem.

Chairman MILLER. Most of what you are doing is required under Federal law, isn't it, between the Education for the Handicapped Act and 96-272?

Ms. BEHAR. Absolutely.

Chairman MILLER. Periodic reviews and individualized case planning, and all of that, isn't that, in fact required?

Ms. BEHAR. The interesting thing is that there are no mandates for mental health. Mental health is mandated to the provide whatever services they can with whatever money they have.

If you put a child in a hospital you have to provide and meet his treatment and education needs. What is interesting is that it is mental health, that is the lead agency in providing us the remedy to this law suit, which was only by chance. You are, of course, quite right.

Ms. KERR. I think it can backfire though. The case that I presented to you is in litigation right now. Again, in my opinion, the result has been that this State is taking a harder look at what they are doing, but they are coming down much harder on the private sector.

They are much more demanding of what the private agency does than they are what they do themselves. They will make life very hard for the private sector. It is just an incredible reverse.

In Kentucky, where, again, I think it is a very cut and dry situation, they are fighting it. They are fighting it tooth and nail. They probably spend more money fighting it than if they had caved in and said, you know, you are right; we abused this child.

You don't have to be a mental giant to see that they abused this child and made his situation worse than when he entered the system; and rather than saying, yes, we give up, let's look at it; they are not going to do that. Well, States usually defend their own positions, and I think that was what was so unusual about this law suit, that we didn't defend ourselves.

Ms. KERR. And they continue to do the same thing.

Chairman MILLER. Peter, how wide spread is the notion of using restitution?

Mr. SCHNEIDER. A lot more wide spread than it was about 10 years ago. When we first started this in 1976, we found about 15 programs nationwide. We have got data now on about 500. I don't know how many more there are——

Chairman MILLER. 500 programs?

Mr. SCHNEIDER. Yes, 500 programs. We keep learning about new programs all the time because they are starting up, you know, as time goes on. That is how many we know about now.

It is not as wide spread as much as we would like it to be. But it is growing a lot.

Chairman MILLER. In terms of the benefits, where do you think the greatest value is?

Mr. SCHNEIDER. I think its greatest value is the effect that it has on a kid. A lot of the kids that get into trouble are kids that have had difficulty in coping all the way through. They are kids that had trouble when they were in third grade.

Actually, if you talk to teachers about kids have evolved as they go through school, and one of the things that has always fascinated me is that teachers tell me that kids in the first grade are pretty much all alike; everybody wants to respond, everybody wants to answer the questions properly.

Some of the kids get called upon and they have got the right answers. Other kids are called and they don't have the right answers.

The kids that don't have the right answers stop raising their hand because they know they are going to be embarrassed because they don't have the right answer.

Later on these kids can't find any other way to get attention, so they begin to act out. They begin to fail. They fail in school; and they fail at their associations with their peers; and they fail in their association with their parents; and they fail all the way through.

Working on a restitution project means essentially signing a contract that tells them that they are agreeing to pay a certain amount of money, within a certain amount of time, to their victim. If they succeed in doing this it is maybe the first time that they have ever succeeded at anything they have ever attempted. And one success in many instances, is all they really need to make them figure out that there is another way to go. I think that is the most important effect.

Chairman MILLER. Well, thank you for the time and information that you have given to the committee; I appreciate it very much.

I hope you will excuse Congressman Coats. We are in an allocated time situation on the floor, and his time came up to speak on the tax bill. If you miss it somebody else will say something about the tax bill you don't like.

Thank you very much.

The committee will stand adjourned.

[Whereupon, at 2:10 p.m., the hearing adjourned.]

[Information submitted for inclusion in the record to follows:]

PREPARED STATEMENT OF KATHRYN A. HAZEEM, DIRECTOR OF LEGAL AFFAIRS FOR THE COALITION FOR RELIGIOUS FREEDOM

Mr. Chairman, my thanks to you and the distinguished members of the House Select Committee on Children, Youth and Families for the opportunity to briefly discuss matters of concern to religious organizations operating residential child care ministries.

The Coalition for Religious Freedom was formed in 1984 to heighten public awareness to the increasing number of cases being litigated involving government encroachment on the rights of religious individuals and organizations. The Coalition is comprised of churches, ministers, and laymen of diverse faiths who have come together in the recognition that when the religious liberty of one faith is threatened, the rights of all faiths are in jeopardy. "The Religious Freedom Alert," a newspaper highlighting important cases and issues involving religious freedom in America and internationally, is published monthly by the CRF. Among its many activities, the Coalition has filed briefs as amicus curiae in significant religious freedom cases and presently monitors the development of First Amendment related cases which promise to have a serious precedential effect on the future of church-state relations.

In our short history, we have accumulated an unusual measure of experience dealing with church child-care ministries operating in various states opposed to state licensing requirements for religious and constitutional reasons.

There is not sufficient time or space at present for each of the pastors with whom we have worked to come before this committee and voice their legitimate concerns nor to lay out the details in each battle to retain control of their church ministries.

On their behalf, I wish to take this time to offer some insight by dispelling some of the myths regarding this curious breed of church-state conflict. I hope these remarks will be of some assistance to the committee in future deliberations regarding the most effective method for ensuring the maintenance of standards of care and protection for children living outside of parental care.

MYTH ONE: PASTORS AND CHILDREN WHO FIND THEMSELVES IN CONFRONTATIONS WITH THE STATE OVER THE LICENSING OF RESIDENTIAL CHILD-CARE MINISTRIES ARE SIMPLY USING THE FIRST AMENDMENT AS AN EXCUSE TO PREVENT PROSECUTION FOR ENGAGING IN ILLEGAL OR HARMFUL ACTIVITY.

There are legitimate and widely recognized constitutional arguments for religious organizations to be opposed to being required to comply with state licensing requirements as a condition precedent to operation of a residential child-care ministry.

One of them is based on the free exercise clause of the First Amendment to the U.S. Constitution. The phrase "Congress shall make no law . . . prohibiting the free exercise" [of religion] unilaterally protects religious ministries from state control unless the state has a compelling interest in interfering with the ministry and there are no other available methods for achieving the state's compelling interest.

There are other constitutional grounds such as the Establishment clause prohibition against excessive entanglement between church and state through the latter's continual monitoring of church activity and the right of parents to direct and control the upbringing of their children which support the position of most churches opposed to state licensing of their child-care ministries.

As to using a legitimate constitutional position to shield illegitimate and illegal acts, in all the cases dealt with or examined by CRF there has simply been no hard evidence of any sort of illegal activity other than unwillingness to procure a license. (If we did discover that a church ministry was using the First Amendment to commit illegal acts or cause harm to children, we would be unable to support that church.)

We have found more often, in fact, that the state claiming an interest in "protecting" the children, causes them the greater harm.

Earlier this year, for example, after one and a half years of delicate negotiation in order to develop clear legal alternatives to licensing requirements, a helicopter raid was launched by Idaho Health and Welfare officials against the children of the Deliverance Boy's Ranch. The boys were forcibly removed from the ranch, even though the director, Rev. Don Elliott, had been made legal guardian of each of the youngsters (with the consent of the parents).

Boys ran as far as seven miles to avoid being "captured" by the state officials. In dramatic news footage shot at the time of the raid, one youngster who resists the "protection" of state officials is brutally forced to the ground and handcuffed. All of the boys were taken from the ranch to a mental institution. Most were removed after a short time. One of the boys, however, was temporarily "misplaced" for a week, locked in a padded cell with his meals fed to him by being slid under the cell door.

Rev. Elliott does not object to carefully tailored health, safety and fire requirements, he simply did not want to be licensed by the state for the previously mentioned constitutional reasons.

The parents of the boys were never consulted as to the state's plans for the raid. They are distressed because some of the boys are now in prison and others have returned to former habits of drub abuse.

The interest of the state was not in protecting the children, but in enforcing its laws regardless of the harm they inflicted on the children, their families and the church.

In any event, there are laws in every state dealing with criminal activity such as child abuse, a heinous and evil act under which a violator can be prosecuted regardless of his or her religious affiliation.

MYTH TWO: THE MOST EFFECTIVE WAY TO INSURE THE INTEREST OF THE STATE IN PROTECTING THE WELL-BEING OF CHILDREN IN PRIVATE CHILD-CARE FACILITIES IS TO IMPLEMENT A FAR REACHING, EXHAUSTIVE LICENSING AND REGULATORY SCHEME.

Apart from the previously mentioned constitutional barriers which prohibit the imposition of such a regulatory scheme on church ministries, there is the issue of the effectiveness of state licensing and regulatory schemes generally.

Unfortunately, public facilities over which the state has total control provide numerous horrid examples of denial of rights of parental access, physical and sexual abuse and, in some cases, even death. One must seriously wonder if planned schemes for the licensing and regulation of church child-care ministries would produce similar disastrous results. If the regulatory methods the state uses to police its own homes produce such results, how can states or the federal government seriously ask church ministries to comply with the same paper regulations and standards.

Under the free exercise standard previously articulated, the state has a valid interest in insuring the health and safety of the children. The law requires, however, that regulatory schemes enacted to effectuate this interest be carefully tailored, i.e., the least drastic means available to avoid trampling on a church's constitutionally protected free exercise rights.

In our experience, we have often found that states are either unwilling or unable to comply with the requirement that they prove that the licensing and regulatory requirements will indeed protect the health and safety of the children. A cursory justification, "It's the law and we have to enforce the law" is often allowed to steamroll a church's valid constitutional claims against licensing and intrusive regulatory requirements.

Perhaps these remarks are unnecessarily adversarial in tone. This is not their intended character. The fact is that whether the provider of care to troubled children outside of their natural home is the church or the state, the goal, a happy well-adjusted individual with a future of hope and opportunity, is substantially the same.

Church-run facilities, operated as ministries are admittedly better prepared to provide the spiritual guidance necessary to assist children and teenagers in their developing years. Indeed this is their primary motivation for operating the ministry in the first place. The state and the church need to recognize and respect the boundaries, responsibilities and authority of their respective functions so that both may continue to operate effectively in a free society.

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September 30, 1986

Congressman George Miller
House Select Committee on
Children, Youth & Families
385 House Annex 2
2nd and D Streets, S.W.
Washington, D.C. 20515

Re: **House Select Committee**
Hearing September 25, 1986

Dear Congressman Miller:

At the hearing of the House Select Committee on Children, Youth, and Families on September 25, Congresswoman Johnson mentioned a private for-profit program in Maine that she said was considered quite unusual. She did not recall the name of the program, but I believe she was referring to a program known as "Elan."

In view of the discussion at the Select Committee hearing on "private" programs, I would like to set the record straight regarding Elan. The program has been the subject of several investigations by state agencies and commissions. The enclosed report from the Rhode Island Office of the Child Advocate is typical: it describes a number of practices in the program that appear to violate children's rights under state and federal law. In consequence, the Child Advocate recommended that all Rhode Island children be removed from Elan until all violations of the law were rectified. Also enclosed is a copy of Elan's response to the Child Advocate's report.

I would appreciate it if you would include this letter in the record of the hearing on "Children in State Care."

Thank you for inviting me to appear before the Select Committee. I thought the testimony and discussion were valuable and informative. If there is any way that my colleagues and I can be of further assistance to the Select Committee, please let me know.

Sincerely,

MARK I. SOLER
Director

MIS/nj
Enc.

[Child Advocate's Report on Elan Child Advocate Public Document 81-102, from Rhode Island Office of the Child Advocate, dated May 7, 1981, and Response to Reply of Elan One to Report of Rhode Island Advocate, Public Document 80-102, Elan One, Poland Spring, ME, dated June 15, 1981, is maintained in committee files.]